

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MISC. APPEAL (C) NO. 1343 OF 2014

1. Smt. Kamla Devi W/o Lt. Omprakash Singh, aged about 36 years
2. Sushil Kumar Singh S/o Lt. Omprakash Singh, aged about 18 years
3. Ku. Chhaya Singh D/o Lt. Omprakash Singh, aged about 17 years
4. Ku. Jyoti Singh D/o Lt. Omprakash Singh, aged about 12 years
5. Ku. Gaja Singh D/o Lt. Omprakash Singh, aged about 9 years
6. Ku. Rekha Singh D/o Lt. Omprakash Singh, aged about 8 years
7. Ku. Sima Singh D/o Lt. Omprakash Singh, aged about 6 years
8. Smt. Sushila Singh W/o Lt. Ramnarayan Singh, aged about 68 years

The appellants no. 3 to 7 being minor through their natural guardian mother Smt. Kamla Devi. All are resident of Pragati Vihar, S.E.C.L. Colony, Bhatgaon, Police Station Bhatgaon, Tahsil Bhaiyathan, District Surguja (now Distt. Surajpur) (C.G.) (Claimants)

... Appellants

Versus

1. Banwari Lal S/o Baijnath Panika, aged about 28 years, R/o Village & Post Kumda, S.E.C.L. Colony, Purana Mines, Police Station Vishrampur, Tahsil Surajpur, District Surguja (now Distt. Surajpur) (C.G.) (Driver of the vehicle)
2. Laxmikant Dubey S/o Madanmohan Dubey, aged about 45 years, R/o Village & Post- Vishrampur, P.S. Vishrampur, Distt. Surguja (now Distt. Surajpur) (C.G.) (Owner of the vehicle)
3. Iffco Tokiyo General Insurance Co. Ltd., through Branch Manager, Branch Jabalpur (M.P.) (Insurer of Tipper)
4. Oriental Insurance Co. Ltd., through the Branch Manager, Branch Ambikapur, Address- M.D.G.R. Road, Near Ambedkar Chowk, Ambikapur, Distt. Surguja (C.G.) (Insurer of Motorcycle)

... Respondents

For Appellants	:	Mr. Rakesh Pandey, Advocate.
For Respondent No.4	:	Mr. Raj Awasthi, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14/07/2015

1. Heard on I.A. No.1, which is an application under Section 5 of the Limitation Act, seeking condonation for delay in filing the present Appeal.

2. It is pertinent to mention that the present Appeal under Section 173 of the Motor Vehicles Act has been filed with inordinate 1484 days of delay. A perusal of the contents stated in I.A. No.1 would show that no good ground has been raised by the Appellants to justify the delay on their part in filing the instant Appeal. Further, the contents of paragraph 3 of I.A. No.1 is to the fact that the Appellants do not have any source of income is not sustainable for the reason that the deceased was an employee of the South Eastern Coalfields Limited and the Appellants have received financial benefits on account of death of the deceased, which also establishes the fact that the averment made by the Appellants in paragraph 3 of I.A. No.1 also is incorrect.

3. Though the Appeal is on behalf of the claimants, yet the fact still remains that once the limitation has been prescribed under the statutes, the appeal normally should be filed within the stipulated time. However, the Act also has a clause for condoning the delay in the event if plausible reasons have been explained by the claimants seeking condonation of delay. Unless the reasons so assigned are plausible, reasonable and justified and satisfactorily explained the same cannot be and should not be accepted in a mechanical manner. In the instant case also a plain reading of I.A. No.1 does not reflect any plausible reasons or a satisfactory explanation given by the Appellants/Claimants seeking for condonation of delay coupled with the fact that the duration of the delay is of more than 4 years. This being the position, this Court is not inclined to allow the I.A. No.1.

4. Accordingly, I.A. No.1 being devoid of merit is rejected. As a result, the Appeal also stands rejected being barred by limitation.

Sd/-
(P. Sam Koshy)
Judge