



(39)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Appeal No.1201 of 2003

1. Zamirul Hasan, S/o. Shri Fajullah, aged about 47 years, Occupation Driver
2. Abida Khatun, Wife of Zamirul Hasan, aged about 45 years, Occupation House wife

Both are R/o. Near Cold store Bhaiyathan Road, Surajpur, Distt. Surguja - (CG)

---- Appellants

Versus

1. Sajjan Kumar Agarwal, S/o. Shri Satyanarayan Agrawal, Proprietor- Rasoi Gas, Bhaiyathan Road, Surajpur, Police Station & Tahsil Surajpur, Distt. Surguja (CG)
2. Abul Hasan, S/o. Abdul Motwalli, aged about 25 years, Occupation Electrician, R/o. Near Cold Store, Surajput, Distt. Surguja (CG)
3. United India Insurance Company Ltd, though Branch Manager, United India Insurance Co. Near Ram Mandir, Ambikapur, Distt. Surguja (CG).

---- Respondents

For appellants : Shri VK Pandey, Advocate
For respondent No.3 : Shri Vinay Harit, Sr. Advocate with Shri
Sumit Shrivastava, Advocate.
None for respondent No.1 though represented.
None for respondent No.2 though served.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

19.12.2016

Heard on IA No.1967 of 2003, condonation of delay in filing the appeal under Section 5 of the Limitation Act.

2. The instant appeal has been preferred after 209 days of its limitation.

3. Learned counsel for the appellant would submit that the appellants are poor and illiterate villagers, they have no knowledge regarding the limitation of the appeal. Moreover, some local counsel

suggested to the appellants that they can file the appeal for enhancement within one year from the date of award. Thereafter they have taken the advice of another counsel and came to know that limitation for filing the appeal for enhancement is 90 days and thereafter they filed the instant MAC which is barred by 209 days of its limitation.

4. Perused the award dated 11.12.2002.

5. A perusal of the certified copy of the award, it appears that this certified copy of the award has been received from the Office of District and Sessions Judge, Ambikapur under the seal and signature of Head copyist. There is no disclosure regarding receipt of copy of award by the appellants/claimants under Section 168(2) of the Motor Vehicles Act, 1988. There is also no disclosure whether any professional misconduct or other action has been taken against the counsel who had mislead the appellants for giving wrong advice regarding the period of limitation to file an appeal.

6. On due consideration, IA No.1967/2003 is not liable to be allowed as the delay is not satisfactorily explained by the appellants. The application is accordingly dismissed.

7. As a consequence, the appeal too is dismissed as being barred by time.

Sd/-
Chandra Bhushan Bajpai
Judge