

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 331 of 2016**

1. Kamalkant Ratnakar S/o Salaguram Suryavanshi, Aged About 25 Years R/o Village Mekari, P.S. And Tahsil Pamgarh, District Janjgir-Champa, Chhattisgarh (Driver Of Offending Vehicle Of Bearing C.G. 11-A/3583)
2. Salaguram Suryavanshi S/o Dhanaram Suryavanshi, Aged About 45 Years R/o Village Mekari, P.S. And Tahsil Pamgarh, District Janjgir-Champa, Chhattisgarh (Owner Of Offending Vehicle Of Bearing C.G. 11-A/3583)

---- Appellants**Versus**

1. Smt. Seema Sahu W/o Late Heeralal Sahu, Aged About 22 Years R/o Village And Post Rasauta P.S. And Tahsil Pamgarh, District Janjgir-Champa, Chhattisgarh
2. Rameshwar Prasad Sahu S/o Late Purshottam Sahu, Aged About 55 Years R/o Village And Post Rasauta P.S. And Tahsil Pamgarh, District Janjgir-Champa, Chhattisgarh
3. Smt. Kalindri Bai Sahu W/o Rameshwar Prasad, Aged About 50 Years R/o Village And Post Rasauta P.S. And Tahsil Pamgarh, District Janjgir-Champa, Chhattisgarh(Claimants)
4. Divisional Manager, United India Insurance Company Limited, Divisional Office Korba, District Korba, Chhattisgarh (Insurer Of The Offending Vehicle Of Bearing C.G. 11-A/3583)

---- Respondents

For Appellants : Shri K.K. Dewangan, Advocate
 For Respondent 4 : Shri Dashrath Gupta, Advocate
 None for respondent 1 though served.
 None for respondents 2 and 3 though represented.

HON'BLE SHRI JUSTICE CHANDRA BHUSHAN BAJPAI**ORDER****21/10/2016**

1. Heard on I.A.No.3/2016, application for condonation of delay in filing the appeal.

2. Learned Counsel submits that the appellants had no knowledge regarding the impugned award. It is only when the claimants moved execution application before the Tribunal and notices were served on the appellants' on 28.1.2016, then they came to know regarding the award passed against the appellants. Thereafter, they contacted the counsel, inquired and get knowledge about the award and after obtaining certified copy of the impugned award, they have filed the instant MAC. The appellants are rustic villagers and they have no knowledge regarding limitation law, hence, delay of 932 days has been caused in filing the appeal. He prayed that the delay may be condoned and the appeal may be admitted for hearing.

3. On behalf of respondent 4, the application is opposed.

4. Perused the impugned award and other documents annexed along with the appeal.

5. On due consideration, it appears that both the appellants were ex-parte before the concerned Tribunal. The appellants had not filed any document to demonstrate how they became ex-parte in the matter and what was the explanation for it. The appellants have not explained the fact as provided under Section 168 (2) of the Motor Vehicles Act, 1988 wherein the Claims Tribunals are directed to arrange to deliver the copies of the award to the parties concerned expeditiously. The appellants have not stated anything in the affidavit and also in the application whether they have received any copy of the award as per the provisions of Section 168 (2) of the Motor Vehicles Act. These 2 facts are the core issues to demonstrate the bonafide regarding the factum of delay.

6. Simply by saying that they have no knowledge and they only came to know after they received a notice regarding the award, is not a complete truth. It appears that deliberately the appellants have not submitted the entire facts with clean hands before this Court. There is delay of 932 days in filing the instant MAC and in absence of any fact that they have not received the copy under the provisions of Section 168 (2) of the Motor Vehicles Act also a fact that as to how they became ex-parte in the trial of the said claim case. In the considered view of this Court, as the appellants have failed to satisfy for the reasons of their delay in filing the instant MAC, I.A.No.3/2016 ought to be and is hereby dismissed as not maintainable along with the instant MAC which is barred by 932 days.

7. Accordingly, the MAC is also dismissed.

Sd/

(Chandra Bhushan Bajpai)
JUDGE