

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Appeal (C) No.852 of 2016**

1. Thakur Ram S/o Sukhram, Aged About 33 Years R/o Village Badgaon, Police Station Katghora, Tahsil Korba, Chhattisgarh, District (Revenue And Civil) Korba, Chhattisgarh
2. Sahdeo S/o Thakur Ram, Aged About 8 Years Minor, Through The Father (Natural Guardian) Appellant No. 01 Thakur Ram, R/o Village Badgaon, Police Station Katghora, Tahsil Korba, Chhattisgarh, District (Revenue And Civil) Korba, Chhattisgarh
3. Kharbhawan, S/o Thakur Ram, Aged About 6 Years Minor, Through The Father (Natural Guardian) Appellant No. 01 Thakur Ram, R/o Village Badgaon, Police Station Katghora, Tahsil Korba, Chhattisgarh, District (Revenue And Civil) Korba, Chhattisgarh
4. Parmanand, S/o Thakur Ram, Aged About 4 Years Minor, Through The Father (Natural Guardian) Appellant No. 01 Thakur Ram, R/o Village Badgaon, Police Station Katghora, Tahsil Korba, Chhattisgarh, District (Revenue And Civil) Korba, Chhattisgarh
5. Parmil, S/o Thakur Ram, Aged About 2 Years Minor, Through The Father (Natural Guardian) Appellant No. 01 Thakur Ram, R/o Village Badgaon, Police Station Katghora, Tahsil Korba, Chhattisgarh, District (Revenue And Civil) Korba, Chhattisgarh(Applicant)

---- Appellants

Versus

1. Ravikumar S/o Golan Singh, R/o Rampur (Wrongly Mentioned Rampur) Basti, I. T. I. Korba, Tahsil & District (Revenue & Civil) Korba, Chhattisgarh.....(Driver)
2. Gangaprasad Jaiswal, S/o Mahettar Lal Jaiswal, R/o Village Chhirra, Police Station & Tahsil Katghora, District (Revenue And Civil) Korba, Chhattisgarh.....(Owner)
3. The Shriram General Insurance Company Limited 1st Floor No. 48, M. P. Nagar Jon 02, Bhopal, M. P. Through Branch Office Near Gayatri Temple T. P. Nagar, Korba, Tahsil And District (Revenue And Civil) Korba, Chhattisgarh.....(Non Applicants)

---- Respondents

For appellant : Shri Anand Kesharwani, Advocate.
 For respondent No.3 : Shri Sachin Singh Rajput, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board**

21.10.2016

Heard on IA No.01, application for condonation of delay in filing the appeal as the instant appeal has been preferred after 507 days of its limitation.

2. This is a claimant's appeal for enhancement of impugned awarded amount.

3. Learned counsel for the appellants submits that on 13.11.11, wife of appellant No.1 met with an accident and died on the spot. Thereafter the appellant became indebted after spending the amount in rituals of his deceased wife. The appellants are rustic villagers, they are not aware of the limitation of filing the appeal and filed the instant appeal after 507 days of its limitation which is bonafide, hence, the delay may be condoned and the appeal may be admitted for consideration.

4. Learned counsel for respondent No.3 opposed the arguments advanced on behalf of the appellants.

5. Perused the impugned award and IA No.01 under Section 5 of the Limitation Act. A perusal of the impugned award and the interim application, it appears that it is not the case of the appellants that they had spent money for medical treatment of deceased Bhuri Bai and due to this they became indebted. Virtually deceased Bhuri Bai died on the spot on 13.11.2011 and thereafter the appellant/applicant had filed the application under Section 166 of the Motor Vehicles Act, 1988 (for short the Act of 1988) for compensation arising out of the death of the deceased.

In the entire claim it is nowhere prayed that on account of ritual after the death of the Bhuri Bai the appellants became indebted and also the appellants contested the matter, duly represented before the Tribunal, and the award passed in their favour on 19.8.2014. The appellants had not informed whether they executed the said award passed in their favour or not. If they were represented, they would have received the copy well within the time under Section 168(2) of the Act, 1988 and the wife already died on 13.11.2011, the award was passed on 19.8.2014 but the appellant filed the instant MAC after 507 days of its limitation which goes to show that ground taken for filing the instant appeal belatedly is not bonafide. In the considered view of this court, as the appellants failed to demonstrate the delay period of 507 days in filing the instant appeal, IA No.01/16 is hereby dismissed as not maintainable along with the instant appeal as time barred.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE