

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 876 of 2016**

1. Smt. Kamlavati Devi W/o Late Lallan Prasad Verma, Aged About 50 Years
2. Arvind Kumar Verma, S/o Late Lallan Prasad Verma, Aged About 28 Years
3. Madhu Verma D/o Late Lallan Prasad Verma, Aged About 20 Years  
All R/o Village Nayakbandha, Post Abhanpur, Tahsil Abhanpur, District Raipur, Chhattisgarh.....(Claimants)

**---- Appellants****Versus**

1. P. Bhima Reddy S/o P. Pulla Reddy, Aged About 52 Years R/o Ward No. 27, Station Road, Dallirajhara, Tahsil Dallirajhara, District Balod, Chhattisgarh.....(Driver)
2. Gyanchand Golchha, S/o Late Shri Kanwar Lal Golchha, Aged About 58 Years R/o Main Road, Nagri, Tahsil Nagri, District Dhamtari, CG
3. The Oriental Insurance Company Limited Through The Branch Manger, Branch Office, M. B. Trade Centre, Second Floor, Near Gandhi Chowk, Dhamtari, Tahsil & District Dhamtari, Chhattisgarh..... (Non Applicants)

**---- Respondents**


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For appellants : Mr. D.N. Prajapati, Adv.

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**ORDER****9/11/2016**

1. Mr. D. N. Prajapati, Adv. for the appellants.
2. None for R-3 though represented.
3. None for R-1 and 2 though served as per office note dated 5-11-2016.
4. Heard on I.A. No. 1/16 for condonation of delay in filing the appeal as the same has been preferred after a delay of 26 days of its limitation. Also heard on admission.
5. Learned counsel for the appellant submits that appellants are poor and rustic villagers facing great financial crises after death of earning member of the family. Hence instant appeal could not be filed within time and after arranging some expenses, the appellants after consultation has filed the present appeal with delay. The delay is unintentional and bonafide. It is further argued

that on account of advance age of the applicant No. 4 who subsequently died after the award dated 1-3-2016, the claimants/ appellants could not examine themselves or any other witnesses. With this, the concerned Tribunal dismissed the claim petition hence the matter be remitted back for further consideration before the concerned Tribunal.

6. Perused the impugned award dated 1-3-2016 passed by the concerned Tribunal. It appears that the claimants/ appellants were represented by a lawyer but they did not examine themselves or any other witnesses. With this they have utterly failed to prove any of the issue framed by the Tribunal and as no evidence is adduced either oral or documentary, the Tribunal dismissed the claim petition. No reason is shown on behalf of the appellants as to whether they attempted for any opportunity which was denied by the Tribunal to adduce evidence on their behalf. The instant MAC has been preferred after 26 days of its limitation. The appellants have not stated the fact as to when they received copy of the impugned award under Section 168 sub-section (2) of the Motor Vehicles Act, 1988, also not disclosed other facts regarding delay. Mere submission that they are poor and rustic villagers and facing financial crises cannot be taken into consideration unless supported by some relevant facts. In the present MAC it appears that for want of any evidence adduced before the Tribunal, the Tribunal has dismissed the said claim case. On due consideration, this court is of the view that the appellants have not satisfactorily explained the cause of delay and also failed to demonstrate reason for not adducing evidence before the concerned Tribunal.
7. With this, I.A. No. 1/16 for condonation of delay in filing the MAC being sans substance is dismissed. Consequently, instant MAC is also dismissed as barred by limitation.

Sd/-  
(Chandra Bhushan Bajpai)  
Judge