

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1152 of 2016**

1. Smt. Chitrarekha Sen (Wrongly Mentioned As Chitrarekha Sen In The Impugned Award), W/o Late Bhojram Sen, Aged About 28 Years,
2. Ku. Priyanka Sen D/o Late Bhojram Sen, Aged About 9 Years
3. Ku. Kiran Sen D/o Late Bhojram Sen, Aged About 7 Years
4. Gulshan Sen S/o Late Bhojram Sen, Aged About 5 Years

Appellant No. 2 to 4 Minor Through Legal Guardian Mother Smt. Chitrarekha Sen Appellant No.1

5. Ramlal Sen S/o Late Beniram Sen, Aged About 50 Years

All R/o Durga Chowk, Santoshi Nagar, Post Office- Raipur, Police Station- Tikrapara, Raipur, District- Raipur, Chhattisgarh
(Claimants)

---- Appellants

Versus

1. Prakash Patel S/o Shri Jeevrakhan Patel, Aged About 40 Years R/o Village- Koshraji, Post Office & Police Station- Mahasamund, District- Mahasamund, Chhattisgarh
(Driver Of Vehicle Truck Bearing Registration No. C.G.06/ B/7888)
2. Pankaj Chandrakar S/o B.N.Chandrakar, R/o Trimurti Colony, Mahasamund, Post Office & Police Station- Mahasamund, District- Mahasamund, Chhattisgarh(Registered Owner Of Vehicle Truck Bearing Registration No. C.G.06/ B/7888)
3. The New India Insurance Company Limited, Through Branch Manager, Branch Office, Madina Building, Jail Road, Raipur, Post Office Raipur, Police Station Golbazar, Raipur, Tahsil & District Raipur, Chhattisgarh(Insurer Of Vehicle Truck Bearing Registration No. C.G.06/ B/7888)

---- Respondents

For applicant	:	Mr. A.L. Singrol, Adv.
For Respondent No. 3	:	Mr. Sameer Singh, Adv.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order****07/11/2016**

None for respondent No. 2 though served as per office note dated 2-11-2016.

Notice issued to R-1 not returned served or unserved.

Heard on I.A. No. 1/16 for condonation of delay as instant MAC has been filed after 347 days of its limitation.

Learned counsel for the appellants submits that the appellant is a poor illiterate layman, not having sufficient fund for filing appeal. The delay is not intentional or deliberate, on the other hand it is bonafide. Hence the delay of 437 days may be condoned.

Perused the impugned award.

Instant MAC has been preferred for enhancement of award amount as ordered by the Tribunal in Claim Case No. 229/2014 vide award dated 9-3-2015.

The appellants have failed to demonstrate as to when they received the certified copy of the award of the Tribunal under Section 168 sub-section (2) of the Motor Vehicles Act, 1988. There is no material whether the impugned award is executed and satisfied or not whereby the concerned Tribunal passed the award of Rs. 7,79,000/- along with interest and cost for the claimants/appellants.

Non-mentioning of above two facts and the delay of 347 days goes to show that the appellants have failed to demonstrate the bonafide cause for delay and not placed entire material available to show the bonafide of the claimants/appellants.

On due consideration, I.A. No. 1/16 for condonation of delay being sans substance deserves to be dismissed. Consequently, I.A. No. 1/16 is dismissed. As a result, instant MAC is also dismissed as barred by limitation.

Sd/-
(Chandra Bhushan Bajpai)
Judge