

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Appeal (C) No.1160 of 2016**

- Tejendra Kumar Sahu S/o Dau Lal Sahu, Aged About 32 Years
R/o Village Navagaon Tahsil Kurud, District Dhamtari
(Chhattisgarh)(Claimant)

---- Appellant

Versus

1. Dr. Avinash Chhikhleeker S/o Late Shri Harihar Gangadhar,
Aged About 61 Years R/o Chhikhleeker Chowk Circuit House
Road Jagdalpur, District Bastar (Chhattisgarh).
2. The Bajaj Allinaz General Insurance Company Limited, Through
Divisional Manager, Regional Officer, Shiv Mohan Bhawan
Vidhanshabha Road Pandri Raipur, Tahsil And District Raipur
(Chhattisgarh).

---- Respondents

For appellant : Shri Sanjeev Sahu, Advocate.
For respondent No.2 : Shri Rohitashwa Singh, Advocate.
Notice issued to respondent No.1 is awaited.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****08.11.2016.**

Heard on IA N0.01, for condonation of delay in filing the instant appeal as the appeal has been preferred after 425 days of its limitation.

2. Learned counsel for the appellant submits that the appellant/claimant is working as a Constable in the Chhattisgarh Police. The appellant was under treatment, hence he could not file the appeal within the time. For 402 days, he could not serve the department and no pay was given to him. The delay is bonafide. Also due to paucity of fund and as well as the lack of knowledge of procedural laws, he has filed the appeal after 425 days of its limitation and the same may be condoned and matter may be heard.

3. Perused the impugned award and along with the instant appeal.

4. There is no any material showing the fact that the appellant or his counsel received the copy of the award under the relevant provision under Section 168(2) of the Motor Vehicles Act, 1988. The appellant is a literate person serving with the police department. The impugned award was passed on 18.3.2015. After perusal of para 9 of the award, it appears that in absence of any permanent disability certificate, in absence of any evidence of the doctor and after considering the entire material, the concerned trial court has passed the award for Rs.4,09,925/- after accepting the entire bill presented by the applicant during trial.

5. On due consideration, as the appellant was negligent despite a public servant, educated person, by filing the instant appeal after 425 days of its limitation and also he has not satisfactorily explained such delay, this Court is of the considered view that the appellant has failed to satisfy the delay of 425 days in filing the appeal. The application is thus liable to be dismissed and is accordingly dismissed.

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

Sd/-
(Chandra Bhushan Bajpai)
JUDGE