

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1188 of 2016

1. Ramesh Kumar Sahu S/o Dular Sahu, Aged About 28 Years R/o- Gram- Raikona, P.S.- Bilaigarh, District- Baloda-Bazar, (Chhattisgarh),..... (Owner).
2. Jailal, S/o. Sitaram Sidar, Aged About 28 Years R/o- Gram- Ramedia, P.S.- Basna, District- Mahasamund, (Chhattisgarh),.....(Driver).

---- Appellants

Versus

1. Shoban Kanwar S/o Sidar Kanwar, Aged About 42 Years R/o- Gram- Paterapali, P.O.- Bhawarpur, P.S.- Bhawarpur, Tehsil- Basna, District- Mahasamund, (Chhattisgarh).
2. Smt. Brijmoti, W/o. Shoban Kanwar, Aged About 37 Years R/o- Gram- Paterapali, P.O.- Bhawarpur, P.S.- Bhawarpur, Tehsil- Basna, District- Mahasamund, (Chhattisgarh),.....(Claimants).
3. Regional Manager, The Oriental Insurance Company Limited, Kutchehari Chowk, Mdina Manjil Raipur, District- Raipur, (Chhattisgarh),.....(Insurer).

---- Respondents

For Appellants	:	Shri Pawan Kesharwani, Advocate
For respondents 1 and 2	:	Shri Vikas Pradhan, Advocate
For respondent 3	:	Shri G.S. Patel, Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

16/12/2016

1. Heard on I.A.No.1/2016 for condonation of delay in filing the appeal as the same has been preferred after 676 days of its limitation.
2. Learned counsel for the appellants would submit that the appellants were not aware of the award passed by the Tribunal on 18.7.2014. When the appellants received the execution notice in which the hearing date was fixed for 28.7.2016 then only for the first time the appellants got knowledge for the award passed against them. Immediately thereafter, the appellants applied for certified copy and after receiving the certified copy they have filed the instant MAC hence, delay has been occurred. The delay is bonafide and unintentional, hence, the same may be condoned and the appeal may be admitted for

consideration on its merits. He submits that the vehicle in question was insured and the Tribunal has wrongly exonerated the Insurance Company on the ground that under the settled law no one is allowed to sit in the tractor and trolley.

3. Perused the award dated 18.7.2014.

4. From perusal of the said award it appears that the appellants/non-applicants 1 and 2 were represented by their respective counsel. There is no fact whether they have not received the copy of the award dated 18.7.2014 under the provisions of Section 168 (2) of the Motor Vehicles Act. Also there is nothing on record whether their respective counsel had accepted the copy of said award and not informed the appellants. The appellants were duly represented to be deemed. Until contrary is proved that the copy of the award was given to them under the relevant provisions, also after consideration of the grounds on the basis of which the Court below has exonerated the insurance company that it is not liable under the relevant provisions regarding presence of any other person on the Tractor and Trolley, in the considered view of this Court, the appellants have failed to explain the delay of 676 days in filing the appeal satisfactorily.

5. Consequently, I.A.No.1/2016 is dismissed as not maintainable. Also the Misc. Appeal (C) is dismissed as barred by 676 days of its limitation.

Sd/-
(Chandra Bhushan Bajpai)
Judge