

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1241 of 2016**

Smt. Basanti W/o Shri Jaimangal, Aged About 65 Years R/o- Village- Barganwa, Occupation- Vehicle Owner, Police Station- Darima, Tahsil- Ambikapur, District- Sarguja, (Chhattisgarh), Through Its Power Of Attorney Holder Smt Fuleshwari Singh W/o Shri Narayan Singh, Aged About 38 Years, R/o- Village- Darima, Police Station- Darima, Tahsil- Ambikapur, District- Sarguja, (Chhattisgarh),.....(Non-Applicant No. 1 Owner).

---- Appellant**Versus**

1. Parmeshwari W/o Shri Ram Prasad, Aged About 55 Years Occupation- Dependant, R/o- Village- Chhindkalo, Police Station- Darima, Tahsil- Ambikapur, District- Sarguja, (Chhattisgarh),.....(Claimant).
2. Rohan Souta, S/o Thedga Souta, Aged About 18 Years Occupation- Driver, R/o- Nanandmali (Amadihpara) Police Station- Darima, Tahsil- Ambikapur, District-- Sarguja, (Chhattisgarh),.....(Non-Applicant No. 2).
3. Manager, United India Insurance Company Limited, Branch Office, Ambikapur Bramha Road, Ambikapur, District- Sarguja, (Chhattisgarh).

---- Respondents

For appellant	:	Mr. B. Kushwah, Adv.
For Respondent No.3	:	Mrs. Chitra Shrivastava, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****14/12/2016**

1. None for R-1 though served as per office note dated 8-12-2016.
2. Notice issued to R-2 returned unserved as the address is not complete.
3. Heard on I.A. No. 1/16 for condonation of delay under Section 5 of the Limitation Act as the instant MAC has been preferred after 317 days of its limitation.
4. Learned counsel for the appellant submits that the appellant is a lady of 65 years of age. She is suffering from blood pressure and sugar and is bed ridden. She executed power of attorney in favour of her daughter to file the appeal and contest it. After arrangement of mandatory deposit, her daughter approached

the counsel and thereafter the appeal is prepared and filed. Hence delay is not intentional. Delay is bonafide. The same may be condoned. The appeal may be admitted for hearing.

5. Perused the impugned award dated 17-7-2015 which is a certified copy issued by the office of District and Sessions Judge, Ambikapur (Sarguja) signed by the Head Copyist. The appellant has not disclosed the fact as to whether or not they have received the copy of the impugned award under Section 168 sub-Section (2) of the Motor Vehicles Act, 1988. The award is passed on 17-7-2015 and despite the aforementioned provisions, another copy was applied on 7-4-2016 filed along with the MAC. The appellant was duly represented in the Claims Tribunal. The appellant filed written statement during trial. It is nowhere mentioned during trial that the appellant was bed ridden and executed power of attorney in favour of her daughter for needful. It is the duty of the appellant to explain the delay satisfactorily.
6. On perusal of entire material and with the non-disclosure of receipt of copy of the impugned award under the provisions of Section 168 sub-section (2) of the Act of 1988 as the appellant has failed to satisfactorily explain the delay of 317 days in filing the instant appeal, I.A. No. 1/16 under Section 5 of the Limitation Act is dismissed as not maintainable. Consequently, instant MAC is also dismissed as barred by limitation.

Sd/-
(Chandra Bhushan Bajpai)
Judge