

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1594 of 2016**

1. Smt. Heeramati @ Bangihin Wd/o Late Rohit Kumar, Aged About 33 Years Caste Rathia, R/o Village Basnajhar, Police Station And Tehsil Kharsia, Civil And Revenue District Raigarh, Chhattisgarh
2. Doleshwar Rathia S/o Late Rohit Kumar Rathia, Aged About 17 Years Minor Through Natural Guardian Mother Smt. Heeramati @ Bangihin Wd/o Late Rohit Kumar, Aged About 33 Years, Caste Rathia, R/o Village Basnajhar, Police Station And Tehsil Kharsia, Civil And Revenue District Raigarh, Chhattisgarh
3. Jageshwar Rathia S/o Late Rohit Kumar Rathia, Aged About 14 Years Minor Through Natural Guardian Mother Smt. Heeramati @ Bangihin Wd/o Late Rohit Kumar, Aged About 33 Years, Caste Rathia, R/o Village Basnajhar, Police Station And Tehsil Kharsia, Civil And Revenue District Raigarh, Chhattisgarh(Claimants)

---- Appellants**Versus**

1. Sant Ram Rathore S/o Late Battu Lal Rathore, Aged About 45 Years R/o Village Kesla, Post Sakreli (Baradwar), Police Station Baradwar, Tehsil Sakti, District Janjgir-Champa, Chhattisgarh(Driver Of Vehicle)
2. Ghanshyam Rathore S/o Ganga Ram Rathore, C/o Rajdhani Travels, Emlipara, Bus Stand, Bilaspur, District Bilaspur, Chhattisgarh, At Present Address Village Durpa, Tehsil Sakti, District Janjgir-Champa, Chhattisgarh(Owner Of Vehicle)
3. Shri Ram General Insurance Company Limited, Jaipur, E 8 Rico Industrial Area, Seetapur, Jaipur (Rajasthan) 302022(Insure Of The Vehicle)

---- Respondents

For Appellants : Shri Govind Dewangan, Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

30/11/2016

1. Heard.
2. The instant MAC has been preferred after 872 days of its limitation.
3. I.A.No.1/2016 under Section 5 of the Limitation Act for condonation of

delay has been filed.

4. Learned counsel for the appellants/claimants would submit that appellant No.1 is an illiterate and poor lady and appellants No. 2 and 3 are the minor sons. Nobody has informed the appellants that the appeal would be preferred within 90 days from the date of the award dated 13th March, 2014. When she came to know about the opportunity to file the MAC, immediately appellant No.1 along with other appellants had filed the instant MAC. Therefore, the delay is unintentional and bonafide, the same may be condoned and the appeal may be admitted for hearing.

5. Perused the memo of appeal, I.A.No.1/2016 and the copy of the award dated 13th March, 2014.

6. On perusal of the entire material, it appears that the appellants have not disclosed as to when they have received the copy of the award under the provisions of Section 168 (2) of the Motor Vehicles Act, 1988. Also there is no declaration when they have informed regarding filing of the appeal in the matter. There is no fact disclosed as to when the claimants/appellants have received the award amount from the concerned Tribunal. It is the duty of the appellants to satisfactorily explain the delay in filing the appeal.

7. The instant MAC has been preferred after 872 days of its limitation. I.A.No.1/2016 is sans substance as not maintainable. Accordingly, the MAC is also dismissed as barred by limitation.

Sd/-

(Chandra Bhushan Bajpai)
Judge