

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Appeal (C) No.1246 of 2016**

- Shri Ram General Insurance Co. Ltd. Issue Office 10003, Address- E-8EPIP, RIICO Industrial Area Sitapura, Jaipur-302022 (Rajasthan) Through Shri Branch Manager Office, Shri Ram General Insurance Company Ltd Maruti Heights Fourth Floor, R.K. Mall In Beside Amanaka Raipur, (Chhattisgarh), 492009,.....(Insurer Of Trola Cg. 12 / S / 1248).

---- Appellant**Versus**

1. Ramayan Lal Sonwani S/o Late Shri Anandram Sonwani, Aged About 41 Years Cast- Satnami, R/o- Quarter 8 / B, Road 14, Sector- 4, Bhilai, District- Durg, (Chhattisgarh),.....(Claimant).
2. Bedram @ Bedu Berman, S/o Kausal Prasad Barmen, Aged About 25 Years R/o- Gram Mungadeh, Thana- Pali, Tahsil & District- Korba, (Chhattisgarh), Through- Shrirekha Agarwal, M.I.G. 1/2 Transport Nagar Korba, (Chhattisgarh),.....(Driver Of Trola C.G. 12/s/1248).
3. Smt Rekha Agarwal, W/o Surendra Agarwal, Cast- Agarwal, R/o- Quarter No M.I.G. 1/2, Transport Nagar Korba, (Chhattisgarh),.....(Owner Of Trola C.G. 12 / S / 1248).

---- Respondents

For appellant : Shri Deepak Gupta, Advocate
 For respondent No.1 : Shri KK Dewangan, Advocate
 None for respondents 2 & 3 though served.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****22.12.2016**

Heard on IA No.01/16 for condonation of delay in filing the appeal.

2. A perusal of the calculation chart and time taken for obtaining certified copy of the award, it appears that from the date of award to filing of the appeal, time period calculated by the Office as 260 days is correct. But the Registry has calculated 78 days for obtaining the certified copy of the award, which is not correct as the application

for obtaining certified copy of the award was filed on 20.6.2016 and the certified copy was supplied on 24.6.2016, which goes to show that only four days has been taken for obtaining the certified copy of the award. After taking the said 04 days and the limitation period of 90 days, then the delay in filing the instant appeal comes to 166 days. With this, it is held that the instant appeal has been filed by limitation of 166 days and not by 92 days as calculated by the Registry.

3. The Registrar (Judl.) is directed to look into the matter and take appropriate action against the erring official and further make ensure not to commit this type of mistake in future.

4. Learned counsel for the appellant would pray that the appellant insurance company on advice of their counsel processed the file and decided to file the appeal since it involves materials question of law and fact and after its approval the appellant Head Office Jaipur sent the file to its Raipur office for filing the appeal and from there to Bilaspur office and then forwarded the file their counsel for filing the appeal. The delay caused in filing the appeal is not deliberate or intentional, hence the same may be condoned and the appeal may be heard on its merits.

5. Perused the award dated 23.12.2015.

6. Legislature provided for limitation to file the Appeal as per Section 173(1) of the Motor Vehicle Act, 1988, to get the benefit of Section 5 of the Limitation Act, the appellant is required to satisfy the delay. The delay is not satisfactorily explained by the appellant, it has only made casual submission that after the advice, the

company has sent the file to Jaipur Head Office and thereafter the file was returned to Raipur and then to Bilaspur and thereafter the counsel prepared the appeal and filed before the Registry for consideration. The appellant is required to explain the delay satisfactorily and since the appellant is an institution and in case of filing of appeal, they are required to be more vigilant regarding limitation clause.

7. On due consideration, as the appellant failed to explain the delay satisfactorily, IA No.01/16 is hereby dismissed. As a consequence, the appeal too is dismissed as being barred by time.

Sd/-

(Chandra Bhushan Bajpai)

JUDGE