

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MAC No. 879 of 2016

Shri Ram General Assurance Co. Ltd. S/o E-8, E P I P Ricco
 Industrial Area Jaipur, Rajasthan Pin 302002 India Branch
 Manager.....(Insurer Of Scooty Cg 15 C F 5687)

---- Appellant

Versus

1. Smt. Kamli W/o Late Duhan Ram, Aged About 41 Years
Occupation House Wife,
2. Sanjay Bak, S/o Duhan Ram, Aged About 24 Years occupation
farmer
3. Ravindra Bak, S/o Duhan Ram, Aged About 21 Years Occupation
Farmer
4. Rajendra Bak S/o Duhan Ram, Aged About 19 Years Occupation
Farmer
5. Sanjeev Bak, S/o Duhan Ram, Aged About 15 Years Occupation
Student,

Appellant No. 1 Smt. Kamli is the natural mother through appellant No. 5 is the minor son, all cast urrao, R/o Gram Dipadih Khurd, Post Ghughrie, Thana And Tahsil Shankargarh Balrampur, Chhattisgarh
Claimants

6. Ku. Anamika Mishra, D/o Ravishankar Mishra, Aged About 23
Years occupation service (Driver Of Scooty C G 15 C F 5687)
7. Praveen Kumar Mishra S/o Ravishankar, Aged About 29 Years
Caste Urrao,

R- 6 and 7 R/o Gram Dipadih Khurd, Post Ghughrie, Thana And Tahsil Shankargarh Balrampur, Chhattisgarh.....(Owner Of Scooty C G 15 C F 5687)

---- Respondents

For appellant	:	Mr. Deepak Gupta, Advocate.
For Respondents No. 1 to 5	:	Mr. A.N. Pandey, Advocate
For Respondent No. 6 and 7	:	Mr. A.L. Singrol, Adv. under the authority of Mr. A.K. Yadav, Adv.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

27/10/2016

Mr. A.N. Pandey prays that he be permitted to withdraw memo of cross-appeal under Order 41 Rule 22 of the CPC read with Rule 242(3) of the C.G. Motor Vehicle Rules, 1994 with liberty to file appropriate appeal under Section 173 of the Motor Vehicles Act, 1988 (in brevity MV Act').

On due consideration, prayer is allowed. Cross-appeal is disposed of as withdrawn reserving aforesaid liberty subject to the provisions of limitation laws applicable and enforceable for filing of such appeal under Section 173 of the MV Act.

Heard on I.A. No 1/16, application under Section 173 of the MV Act read with Section 5 of the Limitation Act for condonation of delay in filing the appeal as the same has been filed after 575 days of its limitation.

Learned counsel for the appellant submits that head office of the appellant company is very far at Jaipur, Rajasthan hence delay of 575 days in filing the appeal has occurred. The same is bonafide hence the same may be condoned and the appeal may be admitted for consideration.

Learned counsel for the respondents opposed the application.

Perused the impugned award, memo of appeal and other annexed documents.

The impugned award was passed on 27-8-2014. Instant MAC has been preferred on 22-6-2016. As per Article 116 of the Limitation Act, the statutory period to file an appeal is 90 days. Address of the appellant as shown in the memo of appeal is at Jaipur. It cannot be said to be a good reason that it took 575 days more to file instant MAC due to distance. On due consideration, this Court is of the considered view that the appellant has utterly failed to submit satisfactory reason for filing instant MAC so lately.

The application for condonation of delay being sans substance deserves to be and is hereby dismissed. Consequently instant MAC is also dismissed as time barred.

Sd/-
(Chandra Bhushan Bajpai)
Judge