

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1139 of 2016**

Kartik Ram Banjare S/o Jageshwar Banjare, Aged About 32 Years R/o
Village- Modhe, Police Station- Takhatpur, District- Bilaspur,
Chhattisgarh

---- Appellant

Versus

1. Mathura Das Manikpuri S/o Premdas Manikpuri, R/o Village- Jamdi,
Police Station- Jaijaipur, District- Janjgir-Champa,
Chhattisgarh(Driver- Bus No. C.G.-10-A/3499)
2. Abdul Ajeer Ahmad S/o Abdul Rashid, R/o Near Bungali Hotel,
Jhopdapara, Bilaspur, Tahsil & District Bilaspur,
Chhattisgarh(Owner- Bus No. C.G.-10-A/3499)
3. The New India Insurance Company Limited, Through The Divisional
Manager, Divisional Office, Korba, District- Korba, Chhattisgarh

---- Respondents

For appellant	:	Mr. Avinash Sahu, Adv.
For Respondent No. 3	:	Mr. B.N. Nande, Adv.

ORDER**23/12/2016**

1. Heard on I.A. No. 2/16 under Order 41 Rule 14 sub-rule (4) of the CPC for dispensing with service of notice on R-1 and 2.
2. Learned counsel for the appellant submits that R-1 and 2 remained exparte during trial before the concerned Tribunal hence service of notice on them may be dispensed with.
3. On due consideration, I.A. No. 2/16 is allowed. Service of notice on R-1 and 2 is dispensed with.
4. Registry is directed to return PF to the appellant which was paid by the appellant without order of this Court.
5. Heard on I.A. No. 1/16 for condonation of delay as the instant MAC is filed after 1140 days of its limitation.
6. Learned counsel for the appellant submits that the appellant/ claimant was not in a position to perform any job. He was dependent on his wife. The appellant and his wife went to out of the State of Chhattisgarh for labour work before passing impugned award, where the wife of appellant was doing labour

work and maintaining the appellant and herself. In the month of June, 2016 the appellant came back to his village and on enquiry, he came to know about the impugned award. Thereafter the appellant through his local counsel applied for the certified copy of the impugned award in the month of July, 2016 and thereafter he has filed instant MAC.

7. Perused the certified copy of the impugned award dated 2-4-2013 which goes to show that it is a certified copy given by the office of the District and Sessions Judge, Bilaspur under the seal of Head Copyist. There is no disclosure of the fact as to when the appellant/claimant received the copy of the award under the provisions of Section 168 (2) of the Motor Vehicle Act, 1988 though they were duly represented by his counsel, also there is no disclosure of the fact whether the claimants/appellant received any awarded amount.
8. Non-disclosure of the copy received under Section 168 sub-section (2) of the Act of 1988 and non-disclosure regarding receipt of any awarded amount after the impugned award dated 2-4-2013 goes to show that the appellant has concealed the relevant and material facts, also not submitted the fact as to when he left out of the State. Looking to the entire appreciation in the impugned award and as no any permanent disability certificate was duly adduced in evidence and proved, the appellant was granted compensation for Rs. 28,400/- only.
9. On perusal of entire facts, this Court is of the view that the appellant has failed to satisfy the cause of delay of 1140 days. Therefore I.A. No. 1/16 for condonation of delay in filing the instant MAC is dismissed as not maintainable. As a result, the instant MAC is also dismissed as barred by limitation.

Sd/-
(Chandra Bhushan Bajpai)
Judge