

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Appeal (C) No.1599 of 2015**

- J.S. Shawhney S/o Lt. H. S. Shawhney, Aged About 39 Years Bus Owner, C/o Dubey Travels New Bus Stand Pandry, P S Civil Lines, Raipur, District Raipur (Chhattisgarh).....(Non Applicant No. 2)

---- Appellant**Versus**

1. Smt. Timbi Bhagat W/o Late Shri Firan Bhagat, Aged About 45 Years R/o Village Bahora (Chachri), P. S.Sanna Tahsil Bagicha, District Jashpur (Chhattisgarh)
2. Sureshj Bhagat S/o Late Shri Firan Bhagat, Aged About 20 Years R/o Village Bahora (Chachri), P. S. Sanna Tahsil Bagicha, District Jashpur (Chhattisgarh)
3. Ku. Sunita Bhagat D/o Late Shri Firan Bhagat, Aged About 17 Years Minor Represented Through Guardian Mother Smt. Timbi Bhagat W/o Late Firan Bhagat, R/o Village Bahora (Chachri), P. S. Sanna Tahsil Bagicha, District Jashpur (Chhattisgarh)
4. Ku. Kusumkanta Bhagat D/o Late Shri Firan Bhagat, Aged About 15 Years Minor Represented Through Guardian Mother Smt. Timbi Bhagat W/o Late Firan Bhagat, R/o Village Bahora (Chachri), P. S. Sanna Tahsil Bagicha, District Jashpur (Chhattisgarh)
5. Ku. Poonam Bhagat D/o Late Shri Firan Bhagat, Aged About 10 Years Minor Represented Through Guardian Mother Smt. Timbi Bhagat W/o Late Firan Bhagat, R/o Village Bahora (Chachri), P. S. Sanna Tahsil Bagicha, District Jashpur (Chhattisgarh)..... (Claimants)
6. Ganesh Ram S/o Keshwar Ram, Aged About 48 Years Caste Kahar, R/o Ranka, Thana Ranka, District Gadwa (Jharkhand).....(Non Applicant No. 1)
7. The Oriental Insurance Company Limited Through Branch Manger, Branch Office Ambedkar Chowk, Manendragarh Road, Ambikapur, District Surguja (Chhattisgarh).....(Non Applicant No. 3)

---- Respondents

For appellant	: Shri JK Gupta, Advocate.
For respondents	: None present.

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

20.10.2016

Learned counsel for the appellant prays for more time to comply with order dated 30.6.2016 wherein the appellant undertakes to deposit Rs.2.25 lakh with the concerned Tribunal within four weeks and the appellant was also directed to file relevant document showing deposit of the above amount. Till today, i.e. after the lapse of three months and twenty days, the appellant has not deposited the amount so agreed before the concerned Tribunal.

2. Also heard on IA No.01/2016, application under Section 5 of the Limitation Act, as the instant appeal has been filed after 794 days of its limitation. Learned counsel for the appellant would submit that only when the execution proceedings were initiated the appellant was informed by his counsel regarding the award passed against the appellant. Due to lack of knowledge about the disposal of the case as the lower court counsel has not intimated about the disposal of the case on time as well as the appellant was unaware of the factual position and apprehended that the appeal was preferred in time, the appeal has been filed belatedly, thus the delay is bonafide, hence delay of 794 days may be condoned.

3. Perused the provisions of Section 168 (2) of the Motor Vehicles Act, 1988, which reads as under:

“168. Award of the Claims Tribunal.- XXXXXXXX

(2) The Claims Tribunal shall arrange to deliver copies of the award to the parties concerned

expeditiously and in any case within a period of fifteen days from the date of the award.”

4. In an application filed under Section 5 of the Limitation Act, the appellant has not disclosed the fact that when he received the copy of the award and when his counsel duly appointed accepted the copy of the award. No any affidavit has been filed on behalf of the counsel that he has not intimated the appellant regarding fate of the said claim case. On the other hand, before this Court the appellant himself intimated to deposit Rs. 2.25 lakh with the concerned Tribunal within four weeks and even after the lapse of 03 months and 26 days the appellant has not complied the undertaking and direction of this Court. Taking the culminating effect of the entire factual position and also not submitting the entire facts as required under Section 168(2) of the Act, 1988 and non compliance of the undertaking, this Court is of the considered view that the appellant has not shown satisfactory explanation regarding delay in filing the instant appeal. Consequently, IA No.01/16 is dismissed as not maintainable so as the instant appeal is also dismissed as presented after the period prescribed.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE