

AFR

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 558 of 2017**

1. Smt. Geeta Devi @ Kamla Dewangan W/o Late Gorelal Dewangan, Aged About 50 Years (At Present Aged About 57 Years)
 2. Ashish Kumar S/o Late Gorelal Dewangan, Aged About 30 Years (At Present Aged About 37 Years)
 3. Kumari Anjulata Dewangan D/o Late Gorelal Dewangan, Aged About 28 Years (At Present Aged About 35 Years)
 4. Kumari Pratima Dewangan D/o Late Gorelal Dewangan, Aged About 25 Years (At Present Aged About 32 Years)
- All R/o Ward No.12, Aamapara, Balod, Tahsil Balod, District Durg (Now District Balod) Chhattisgarh.

---- Appellants**Versus**

1. Dogendra Kumar Chandrakar S/o Bilas Prasad Chandrakar, Aged About 45 Years R/o Village Anda, Police Station Anda, Tahsil & District Durg, Chhattisgarh, At Present Residing At Sikola Basti, Durg, Tahsil & District Durg, Chhattisgarh(Driver)
2. Durg Transport Company Private Limited, Through Manager, Durg, Transport Company Limited, G.E.Road, In Front Of District Court, Durg, Police Station & Tahsil & District Durg, Chhattisgarh (Owner)
3. The Oriental Insurance Company Limited, Durg, Chhattisgarh, Through Divisional Manager, The Oriental Insurance Company Limited, Divisional Office Permanand Bhavan, Near Dr. Rajendra Park, G.E.Road, Durg, Police Station & Tahsil & District Durg, Chhattisgarh(Insurer).

---- Respondents

For Appellants	:	Shri SP Sahu, Advocate.
For respondent No.3	:	Shri Ghanshyam Patel, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****16/08/2017**

1. Heard on IA No.1 which is an application for condonation of delay in filing the appeal.
2. The present appeal under Section 173 of the Motor Vehicles Act has been preferred by the claimants with delay of more than 2590 days i.e. a period roughly more than 7 years, seeking enhancement of compensation against the award dated 10.12.2009 passed by the

Motor Accident Claims Tribunal, Durg (in short, the Tribunal) in Claim Case No.50/2009.

3. The grievance of the appellants is that the amount of compensation awarded by the Tribunal is on the lower side inasmuch as the appropriate multiplier has not been applied by the Tribunal at the time of granting of compensation.
4. The impugned award is dated 10.12.2009. The appeal in the instant case was filed on 11.04.2017 i.e. after more than 7 years period from the date of award. Vide the impugned award, the Tribunal in a death case on an application filed by the claimants under Section 166 of the Motor Vehicles Act has awarded compensation of Rs.11,77,548/- along with interest @ 7 percent per annum from the date of application.
5. Along with the appeal which has been filed with a delay of more than 7 years, the appellants have also filed an application for condonation of delay and the solitary ground which has been raised seeking for condonation of delay is that the appellants had entrusted papers for filing of appeal to an Advocate namely Shri Shailendra Umre, however, the said Lawyer expired on 18.06.2016 and it is only thereafter that the appellants went and verified about their case and it was found that the appeal against the impugned award has not been filed.
6. The explanation provided by the appellants is totally unacceptable, unconvincing and is beyond anyone's comprehension nor would it be accepted by any prudent man. The order under challenge is one dated 10.12.2009. The counsel upon whom blame is being put is, as per appellants themselves, not a Lawyer practicing in the High Court. Further, it reflects that the said Lawyer himself had died only on

18.06.2016 i.e. after 6 and ½ years from the date of award. During these 6 and ½ years time it is apparent that the appellants had not made any approach to the said Lawyer so far as his appeal is concerned. No plausible and justifiable explanation has been given by the appellants for not approaching the Lawyer promptly within the reasonable time.

7. So far as delay and laches are concerned, true it is that the provisions of Motor Vehicles Act is a liberal legislation enacted for the betterment of the claimants who have either sustained injuries or have lost their dear ones in the family, but the pragmatic view or a liberal approach cannot be extended or accepted beyond a certain period of time. One can be delayed in approaching the court by a reasonable period of time, but if it is unreasonably delayed for a substantial period with no plausible explanation, the liberal approach should not be exercised so as to frustrate the very purpose of enunciating the period of limitation in filing of appeal in the Act. This would amount to showing misplaced sympathy. The fact that the appellants have not explained the delay of 6 and ½ years period from the date of award till the date the Lawyer whom they have engaged had expired, to verify about the progress of the case itself shows the indolent attitude on the part of the appellants. It is not a case where the appellants were not aware of the provisions of law nor have they claimed such ground in the application. It is also not a case where they were not having sufficient means to approach the court as the amount awarded itself was of more than 11 Lakhs and 77 Thousands along with interest.
8. In view of the aforesaid factual matrix of the case, this court is of the opinion that no sufficient and strong ground has been made out by

the appellants to condone the inordinate delay in filing the appeal which is otherwise barred by more than 7 years of time i.e. 2590 days to be precise.

9. Accordingly, IA No.1 for condonation of delay in filing of appeal of rejected. As as consequence, the appeal also stands rejected.

Sd/-
(P. Sam Koshy)
Judge

inder