

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1349 of 2016

1. Ghasu Sahu S/o Chowaram Sahu, aged about 60 years, R/o Urai Dabri Ka Tola, Tahsil & Thana Dongargarh, Civil and Revenue District Rajnandgaon, Chhattisgarh
2. Dashri Bai W/o Ghasu Sahu, aged about 60 years, R/o Urai Dabri Ka Tola, Tahsil & Thana Dongargarh, Civil and Revenue District Rajnandgaon, Chhattisgarh(Claimants)

---- Appellants

Versus

1. Rajesh Kumar Mahagahe S/o Laxminarayan, aged about 23 years, Occupation Driver, R/o Village Paathri, Post Hatta, Civil and Revenue District Balaghat (M.P.)(Driver of the offending vehicle)
2. Jitendra Kumar Bafna, Proprietor J.K. Floor & Dal Mill, Ramadhin Marg, Rajnandgaon, Civil and Revenue District Rajnandgaon, Chhattisgarh(Owner of the offending vehicle)
3. Branch Manager, The Oriental Insurance Company Ltd., Station Road, Rajnandgaon, Civil and Revenue District Rajnandgaon, Chhattisgarh(Insurer of the offending vehicle)

---- Respondents

For Appellants – Shri Punit Ruparel, Advocate.

For Respondents 1 and 2 – None, though represented.

For Respondent No.3 – Shri S.K.Agrawal, Advocate under the authority of Shri Goutam Khetrapal, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

13-02-2017

1. Heard on I.A.No.1/2016 for condonation of delay in filing the appeal as the instant MAC has been preferred by the claimants/appellants after 157 days of its limitation.
2. Learned counsel for the appellants would submit that the Tribunal disbursed the entire awarded amount as per award dated 06-01-2016 to the appellants. However, learned counsel is not in a position to submit the date of said disbursement. It is submitted that the appellants are old aged persons, solely depend upon the income of deceased, their financial condition is very poor and till date not a single penny has been given by the insurer till date, hence, they are not able to come before this Court within the time of limitation

and the appellants are not satisfied with the compensation awarded by the Tribunal. The delay is unintentional and bonafide, hence, the delay may be condoned and the matter may be admitted for hearing.

3. Perused the award dated 06-01-2016. It shows that copy of the said award is a copy supplied and received on behalf of the appellants from the Copying Section of Dongargarh. The appellants had not disclosed this fact that where is the copy of the award received under Section 168(2) of the Motor Vehicles Act, 1988. Also orally it is submitted that the awarded amount has been disbursed to the appellants as per award dated 06-01-2016, on the other hand, in para 2 of the application, it is mentioned that till date not a single penny has been given by the insurer till date which is supported by affidavit; even apart, the appellants are required to satisfy the delay in filing the instant MAC. Merely on submission that they are rustic villagers, aged about 60 years, poor persons may not be held as a ground simpliciter to satisfy the delay.

4. On due consideration, I.A.No.1/2016 for condonation of delay in filing the instant MAC is dismissed as the delay is not satisfactorily explained.

5. Also the instant MAC is dismissed being barred by limitation by 157 days.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE