

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1362 of 2016

1. Kamla Bai, Wd/o Late Mahataru Nayak, aged about 40 years, R/o Rajkishore Nagar, Police Station- Sarkanda, District- Bilaspur Chhattisgarh.
2. Santosh Kumar Nayak, S/o Late Mahataru Nayak, aged about 18 years, R/o Rajkishore Nagar, Police Station- Sarkanda, District- Bilaspur Chhattisgarh.
3. Bhagirathi Nayak, S/o Late Mahataru Nayak, aged about 17 years, Minor, Through Natural Guardian Mother Kamla Bai, R/o Rajkishore Nagar, Police Station- Sarkanda, District- Bilaspur Chhattisgarh.
4. Lalita D/o Late Mahataru Nayak, aged about 9 years, Minor, Through Natural Guardian Mother Kamla Bai, R/o Rajkishore Nagar, Police Station- Sarkanda, District- Bilaspur Chhattisgarh..... (Claimants)

---- Appellants

Versus

1. Ajay Kumar Vishwas, S/o Chitraranjan Vishwas, aged about 20 years, R/o Sanjay Nagar, P. S. Jai Nagar, District- Surguja (Chhattisgarh), (Driver of Motorcycle No. CG 15CJ 5634)
2. Ranjeet Bhatt, S/o Subhash Bhatt, aged about 28 years, R/o Sanjay Nagar, P. S. Jai Nagar, District- Surguja Chhattisgarh..... (Owner of Motorcycle No. CG 15CJ 5634)
3. The Branch Manager, Oriental Insurance Company Limited, Bus Stand, Bilaspur, District- Bilaspur Chhattisgarh, (Insurer of Motorcycle No. CG 15CJ 5634)

---- Respondents

For Appellants – None.

For Respondents 1 and 2 – None, though represented.

For Respondent No.3 – Shri Sandeep Shrivastava, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

22-02-2017

1. On 21-11-2016, learned counsel for the appellants prayed for adjournment to argue on I.A.No.1/2016 for condonation of delay in filing the appeal. On 14-12-2016 again adjournment was sought as the arguing counsel was not available. On 13-01-2017 again adjournment was sought as the arguing counsel was not available and as a last measure the Court granted time for hearing on I.A.No.1/2016. Lastly, on 01-02-2017 on personal cause again time was sought on behalf of the appellants.

2. Today also the appellants are not represented when the matter is taken up for hearing.
3. Perused I.A.No.1/2016 for condonation of delay as the instant MAC has been preferred after 237 days of its limitation.
4. It is submitted in the I.A.No.1/2016 that after the sudden demise of husband of appellant No.1 Kamla Bai who was sole bread earner, appellant No.1 suffered mental agony and when she recovered upto some extent she approached to the counsel of the instant MAC and preferred the instant MAC. The delay is unintentional and bonafide, hence, the delay may be condoned and the appeal may be heard on its merit.
5. After perusal of the award dated 4 November, 2015, it appears that this is a copy of the award given to the appellants under the relevant provision of Section 168(2) of the Motor Vehicles Act. Before the trial Court the appellants had contested the said claim case despite the death of husband of appellant No.1 on 11-12-2011. If the appellants were managing and taking part before the Tribunal, the facts mentioned in I.A.No.1/2016 that appellant No.1 suffered mental agony cannot be held as acceptable; also there is no any disclosure of the fact that what was the outcome of any execution proceeding regarding the award dated 04-11-2015 whereby the appellants were granted compensation amount Rs.4,93,300/- and interest and cost of the said claim case.
6. The appellants are required to explain the delay satisfactorily in filing the instant MAC. On due consideration, as the appellants failed to demonstrate satisfactorily cause for filing the instant MAC after 237 days of its limitation, I.A.No.1/2016 is hereby dismissed as not maintainable.
7. The MAC is also dismissed as barred by limitation by 237 days.
8. The MAC dismissed.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE