

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCC No. 389 of 2017**

- Indra Prasad Gupta S/o Late Devnarayan Gupta, Aged About 80 Years Shyam Bus Service, Owner Of Bus No. M P 27 B 0593 M/s Jagdamba Transport, Proprietor Through Gayatri Devi, R/o Bhatti Road, Kedarpur, Ambikapur, District Surguja, M.P. Now Chhattisgarh At Present R/o In The House Of Santosh Gupta Advocate, Raju Gandhi Chowk, Mahima Apartment, Tahsil & District Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. Smt. Suluchana Bai W/o Bhaktoo Ram Yadav, R/o Sonpur, P.S. Kapu, Tahsil Dharamjaigarh, District Raigarh (M.P.) Now Chhattisgarh
2. Ku. Sunita Yadav D/o Bhaktoo Ram Yadav, Aged About 2 Years Minor Through Guardian Mother Smt. Suluchana Bai, R/o Sonpur, P.S. Kapu, Tahsil Dharamjaigarh, District Raigarh (M.P.) Now Chhattisgarh
3. Nathoram S/o Sandarpo, Aged About 80 Years Caste Aheer,
4. Metaree W/o Nathoram, Aged About 60 Years
5. Dhaneshwar S/o Nathoram, Aged About 17 Years Minor Through Natural Guardian Shri Nathoram,

R/o Village Sonpur, P.S. Kapu, Tahsil Dharamjaigarh, District Raigarh (M.P.) Now Chhattisgarh
6. Dost Mohd. Ansari S/o Sukhpari Ansari, Aged About 46 Years Musalman, Occupation Driver, R/o Mayapur, Ambikapur, District Surguja, Chhattisgarh
7. The Oriental Insurance Company Limited, Registered Post Office, House No.25/27, Aasaf Ali Road, New Delhi

---- Respondent

For Applicant**Mr. F.S. Khare, Advocate**

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Arvind Singh Chandel

Order On Board By

Prashant Kumar Mishra, J.

21/7/2017

1. Heard.
2. IA No.01 is an application for condonation of delay of 2787 days in filing the present MCC for restoration of MA No.1291 of 2000, which was dismissed for want of prosecution on 13.8.2009.
3. It is contended that the applicant had no knowledge about the dismissal of the appeal, therefore, he could not move the restoration application within time. The Miscellaneous Appeal was preferred to challenge the award passed by the Motor Accident Claims Tribunal, Ambikapur District Surguja on 26.2.2000 in Motor Vehicle Case No.34/99. The claim awarded by the Tribunal in favour of the legal representatives of deceased Bhaktoo Ram Yadav was only to the tune of Rs.1,59,000/-.
4. The appellant is the owner of the offending bus bearing No.MP-27-B-0593. He operates his business in the name of M/s. Jagdamba Transport through its Proprietor Gayatri Devi.
5. Except for the ground that the applicant had no intimation about the dismissal of the appeal, no other ground has been urged in the application for condonation of delay or in the restoration application.

6. After hearing learned counsel for the applicant and on perusal of the papers, it would appear that the applicant is a successful businessman and is not a labourer or rustic villager residing in any remote village. It is not possible that during all these 2787 days or when the MA was transferred to this Court on 01.11.2000, he did not contact his lawyer, who was prosecuting his case.
7. Considering the enormous delay in moving the application seeking condonation of delay as well as restoration application and further considering the reasons assigned for such delay, we are not satisfied that the applicant was diligent in prosecuting the MA before this Court. The delay has occurred on account of the applicant's callousness and negligence, therefore, it does not appear to be bonafide.
8. The application (IA No.01) under Section 5 of the Limitation Act, therefore, deserves to be and is hereby dismissed. Consequently, the MCC is also dismissed.

Sd/-

Judge

(Prashant Kumar Mishra)

Sd/-

Judge

(Arvind Singh Chandel)