

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1585 of 2016

1. Choramandlum MS General Insurance Company Limited Office At 1st Floor, Rajiv Plaza, Bilaspur Distt. Bilaspur, Chhattisgarh, At Present- In front of L.I.C. Building, 2nd Floor, Simran Tower, Raipur, Police Station Pandri, Civil & Revenue District Raipur, Chhattisgarh(Insurer of Vehicle No. C.G.15-B-7528)

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Versus

1. Ajay Gupta S/o Ramvraksha Gupta, aged about 43 years, R/o Ramanujanj, Ward No.12, Police Station and Tahsil Ramanujanj Distt. Balrampur, Chhattisgarh
2. Kumari Komal Gupta D/o Ajay Gupta, aged about 11 years, Minor and Representing Through Her Father Res. No.1 Ajay Gupta, R/o Ramanujanj, Ward No.12, Police Station and Tahsil Ramanujanj Distt. Balrampur, Chhattisgarh(Claimants)
3. Harshvardhan Singh Thakur S/o Shri H.S.Thakur, Profession- Harsh Bore-Well (Harsh Transport), R/o Mangla Chowck, Tahsil Bilaspur, Distt. Bilaspur, Chhattisgarh(Owner of Truck No. A P-13-5104)
4. Baisakhuram Urf Chhunnu S/o Somaruram Urf Rainuram, Profession- Vehicle Driver, R/o Village and Post Lachodapara, Mirchipara, Police Station Kondagaon, Distt. Bastar, Chhattisgarh(Driver of Truck No. A P-13-5104)
5. Branch Manager, Reliance General Insurance Co. Ltd. Bhopal, Registered Office- Reliance General Insurance Co. Ltd. 99, Reliance Center Walchand- Hirachand Marg Ballard Estate Mumbai- At Present- 5th Floor, National Corporate Park, G.E.Road, Raipur, Chhattisgarh(Insurer of Truck No. A P-13-5104)
6. Rakesh Kumar Gupta S/o Bharat Prasad Gupta, Vehicle Owner Tata Magic, R/o Main Market, Ramanujanj, Police Station Ramanujanj, Tahsil Pal, Distt. Balrampur, Chhattisgarh(Owner of Vehicle No. C.G.15-B-7528)

---- Respondents

For Appellant – Shri Shokie Yadav, Advocate.

For Respondent No.5 – Shri Sourabh Sharma, Advocate.

For Respondents 1, 2 and 4 – None, through represented.

For Respondent No.6 – None, though served through usual mode, as per office note dated 21-02-2017.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

28-02-2017

1. Heard on I.A. No.4/2017 for exemption from service of notice on respondent No.3 - Owner.

2. It is submitted on behalf of the appellant that respondent No.3— Harshvardhan Singh Thakur remained ex-parte before the concerned Tribunal while hearing on MACC No.03/2013, award dated 16-02-2016. With this, the appellant may be exempted to serve notice on respondent No.3.
3. On due consideration, I.A.No.4/2017 is hereby allowed.
4. The appellant is exempted to serve notice on respondent No.3.
5. Heard on I.A.No.1/2016 for condonation of delay in filing the appeal.
6. Learned counsel for the appellant would submit that the appeal has been filed after 167 days of its limitation. The delay occurred on account of procedure and permission from the authorities. With this, the delay of 167 days is not intentional, hence, the delay may be condoned and the appeal may be admitted for hearing.
7. Perused the award dated 16-02-2016 which is a copy received under the seal and signature of Head Copyist, office of the District & Sessions Judge Ambikapur (Surguja), C.G. There is no any disclosure of fact that where is the copy given to the appellant under Section 168(2) of the Motor Vehicles Act. The delay of 167 days cannot be held as bonafide and unintentional only on the submission that the delay occurred on account of procedural formalities in-house of the appellant.
8. As the appellant failed to demonstrate satisfactory cause for the delay, I.A.No.1/2016 is dismissed as not maintainable.
9. The MAC is also dismissed as barred by limitation by 167 days.

Sd/-

(Chandra Bhushan Bajpai)
JUDGE