

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1586 of 2016**

- Cholamandlum M S 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)

---- Appellant**Versus**

1. Nandlal Prajapati S/o Shri Ram Prasad Prajapati, Aged About 43 Years R/o Village Ramanujganj, Police Station Ramanujganj, Tahsil Pal, Distt. Balrampur, Chhattisgarh
2. Smt. Indu Prajapati W/o Shri Ram Prasad Prajapati, Aged About 30 Years R/o Village Ramanujganj, Police Station Ramanujganj, Tahsil Pal, 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, Ramanujganj, Police Station Ramanujganj, Tahsil Pal, Distt. Balrampur, Chhattisgarh (Owner Of Vehicle No. C.G.15-B-7528)

---- Respondents

For Appellant	:	Shri Rohitashav Singh, Advocate
For Respondent No. 1 & 2	:	Shri Vasant Zokarkar, Advocate on behalf of Shri D.N.Prajapati, Advocate
For Respondent No.5	:	Shri Saurabh Sharma, Advocate

Respondent No.3 is unserved.
None for respondent 4 though represented.

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

10/02/2017

1. Learned counsel for respondent 5 would submit that on account of clerical mistake, the power filed on behalf of the respondent is mentioned as it is for respondent 3, but the said power is for respondent 5 hence, this fact may be recorded.

2. Perused the said Vakalatnama. From perusal, it appears that the same is for respondent No.5 only. On a clerical mistake numerical number is given as 3, hence, the said Vakalatnama is for respondent 5 this fact is recorded.

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

4. It is submitted that respondent 3- Harshvardhan Singh Thakur remained ex parte before the concerned Tribunal in the hearing of MACC No. 12/2013, hence, the appellant may be permitted to exempt from service to respondent 3.

5. As prayed, I.A.No.4/2017 is allowed.

6. The appellant is exempted from service to respondent 3.

7. Also heard on I.A.No.1/2016 for condonation of delay in filing the appeal as the instant MAC has been preferred after 167 days of its limitation.

8. It is submitted on behalf of the appellant that after the award passed, copy of the award was handed over to the counsel for the appellant and same was sent to the appellant/company at Raipur. Thereafter, the copy of the said award was sent to Head Office at Chennai and after suggestion of Head Office to seek legal opinion with

regard to file an appeal from the local counsel and counsel of the High Court, the copy and the other relevant papers were sent to the counsel at Bilaspur. Thereafter, the Head Office taken decision to file appeal, with this, the delay of 167 has been occurred, hence, the delay is unintentional and bonafide, same may be condoned and the appeal may be admitted for hearing.

9. Perused the copy of the award dated 16.2.2016. It appears that this is not the same copy of the award given to the appellant under the relevant provisions of Section 168 (2) of the Motor Vehicles Act instead this is the certified copy obtained under the seal and signature of the Head Copyist office of the District and Sessions Judge, Ambikapur District Surguja. There is no discovery of fact where is the said copy of the award given to the appellant/company by the Tribunal under the relevant provisions. The appellant is required to satisfy the cause for delay. Simply on a submission that on account of procedural formalities, the appeal could be filed after 167 days, cannot be said as satisfactory cause for such delay.

10. In view of the above, I.A.No.1/2016 is dismissed as not maintainable as no satisfactory cause is surfaced in the matter.

11. Consequently, the MAC is also dismissed as barred by 167 days.

Sd/-

(Chandra Bhushan Bajpai)
Judge