

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 702 of 2017**

Shivnath Yadav S/o Panchram Yadav, Aged About 32 Years R/o Kusumghata,
Police Station Bodla, Tahsil Bodla, Civil & Revenue District Kabirdham,
Chhattisgarh(Owner)

---- Appellant**Versus**

1. Smt. Sunita Bai Wd/o Late Kalaram Poorna, R/o Manikpur, Police Station Bodla, District Kabirdham, Chhattisgarh
2. Kumari Sandhya D/o Late Kalaram Poorna, Aged About 3 Years Minor through Guardian Mother Sunita Bai Wd/o Late Kalaram Poorna, R/o Manikpur, Police Station Bodla, District Kabirdham, Chhattisgarh
3. Chandra Prakash S/o Late Kalaram Poorna, Aged About 1 And 1/2 Years, Minor Through Guardian Mother Sunita Bai, Wd/o Late Kalaram Poorna, R/o Manikpur, Police Station Bodla, District Kabirdham, Chhattisgarh
4. Bhagwantin Bai W/o Ganpat, Aged About 55 Years R/o Manikpur, Police Station Bodla, District Kabirdham, Chhattisgarh
5. Ganpat S/o Late Baliram, Aged About 60 Years R/o Manikpur, Police Station Bodla, District Kabirdham, Chhattisgarh(Claimants)

---- Respondents

For Appellant : Shri Amiyakant Tiwari, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****19/07/2017**

Heard on I.A. No.01/2017 under Section 5 of the Limitation Act.

2. The challenge in the present appeal is the award dated 16.09.2013 passed by the Motor Accident Claims Tribunal, Kabirdham (Kawardha) in Claim Case No. 95 of 2012. vide the impugned award the Tribunal in a proceeding under Section 166 of the Motor Vehicles Act has granted a compensation of Rs.4,02,000/- to the claimants along with interest @ 7.5% from the date of application.

3. The present appeal was filed on 02.05.2017 along with a delay of 1128 days i.e. more than three years delay in filing the appeal. Along with the appeal there is an application for condonation of delay. The ground seeking for condonation of delay is that the appellant is a poor illiterate villager and that he had instructed the local counsel to prefer an appeal against the impugned award. However, the local counsel has not made any effort to file the appeal. It is only on 26.03.2007 when the appellant visited the High Court and enquired the present status of the appeal, when he came to know that there is no appeal preferred against the impugned award. It is then that he applied for the certified copy of the impugned award which was received by him on 28.03.2017 and the present appeal was then filed on 02.05.2017.

4. Apart from the aforesaid ground, no other ground or explanation has been given. The said ground of the appellant cannot be accepted for the reason that the application is totally silent so far as the local counsel is concerned as to when he had entrusted the file to the local counsel and why he did not enquire about the progress of the case from the date of entrusting the file to the counsel till he had visited the High Court after more than three years i.e. 26.03.2017. The explanation given by the appellant does not appear to be a plausible explanation seeking condonation of delay of more than three years. True it is that the law on limitation is that the condonation of delay in filing of the appeal particularly when there is a provision of condoning the delay, has to be taken in a pragmatic and liberally, but it does not mean that the unexplained and inordinate delay which in the instant case is of more than three years has to be brought within the ambit of pragmatic and liberal approach. There can be an occasion where the appeal for some justified and bona fide reasons could not be filed within the stipulated period and if proper explanation and justification is given with sufficient proof for the delay, the same can definitely be condoned irrespective of the period of delay. In the instant case, however, except for a bald allegation levelled against the local counsel, there is no other ground or reason or proof in this regard even the details of the counsel

or the details as to when he went to the local counsel and why he did not in between sought for information in respect of the progress of the case are not disclosed in the application.

5. For the aforesaid reasons, this Court does not find any strong ground made out for allowing the application filed under Section 5 of the Limitation Act. Accordingly, I.A. 01 is rejected. As a consequence, the appeal also stands dismissed.

**Sd/-
(P. Sam Koshy)
JUDGE**