

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1581 of 2016

1. Sanjit Majumdar S/o Late Kalipad Majumdar, aged about 49 years, Caste Namoshudra, R/o P.V. 61, Balrampur, Tahsil and Thana Pakhanjore, Distt. Uttar Bastar Kanker, Chhattisgarh
2. Smt. Rita Majumdar W/o Sanjit Majumdar, aged about 45 years, Caste Namoshudra, R/o P.V. 61, Balrampur, Tahsil and Thana Pakhanjore, Distt. Uttar Bastar Kanker, Chhattisgarh(Claimants)

---- Appellants

Versus

1. Ashish Kumar Yadav S/o Ramcharan, aged about 25 years, Caste Raut, R/o Kurusbodi (Gondahur) Tahsil and Thana Pakhanjore, Distt. U.B.Kanker, Chhattisgarh(Driver)
2. Parimal Haldar S/o Pramath Haldar, aged about 46 years, Caste Namoshudra, R/o P.V. 30, Thana and Tahsil Pakhanjore, Distt. U.B.Kanker, Chhattisgarh(Owner)
3. Bajaj Alliance General Insurance Company Ltd. through its Branch Manager, Plot No.2/7, II nd Floor Near Gandhi Chowk, G.E.Road, Akash Ganga Supela, Bhilai, District Durg, Chhattisgarh(Insurer)

---- Respondents

For Appellants – Shri Parag Kotecha, Advocate.

For Respondents 1 and 2 – Shri P.K.Tulsyan, Advocate.

For Respondent No.3 –Shri Ghanshyam Patel, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

28-02-2017

1. Heard on I.A. No.1/2016 for condonation of delay.
2. Learned counsel for the appellants further prayed for an opportunity to submit regarding the result of execution proceeding.
3. The prayer is opposed on behalf of the respondents.
4. As a last indulgence the matter was adjourned on 08-02-2017. With this, the prayer for further adjournment is denied.
5. Learned counsel for the appellants placed reliance on the order passed by this Court in MAC No.27/2016 (Smt. Asha Bai V. Gajanand Sahu) dated 16-03-2016 whereby the delay of 1295 days in filing the appeal was condoned by a coordinate Bench of this Court. Learned counsel for the appellants further

placed reliance on the case of **Imrat Lal and others vs. Land Acquisition Collector and others** [(2014) 14 SCC 133] wherein the delay of 1110 days in filing the appeal for enhancement of compensation in a land acquisition matter was condoned by Hon'ble the Apex Court. Learned counsel also placed reliance in the matter of **Sandhya Rani Debbarma and others V. National Insurance Co. Ltd. and another** (2016 ACJ 2717) wherein in a special leave petition the delay of 2824 days was condoned in a compensation matter. It is further submitted that it is a death case and compensation was awarded only Rs. 3,54,000/-. The compensation was not adequate and there was no any limitation prescribed to file the claim petition before the Tribunal. With this, the delay of 127 days may be condoned and the MAC may be admitted for consideration.

6. Perused the award dated 12-04-2016. It appears that this is copy of the award given to the appellants under the seal and signature of In-charge Officer, Copying Section, Bhanupratappur. There is no any disclosure of the fact that where is the copy of the award given to the appellants under the relevant provision of Section 168(2) of the Motor Vehicles Act. Further the award is dated 12-04-2016, the MAC has been filed on 17-11-2016; there is no any disclosure of the fact whether any execution proceeding is filed or not or if filed what is the stage and result of said execution proceeding. The appellants are the claimants, they were duly represented before the trial Court. The appellants are required to satisfy the delay in filing the MAC.

7. In the considered view of this Court, the appellants are failed to satisfy the delay occurred in filing the MAC. With this, I.A.No.1/2016 for condonation of delay is dismissed as not maintainable.

8. The case laws cited are not applicable to the present matter as the other facts aforementioned are different.

9. The MAC is also dismissed as barred by limitation by 127 days.

10. The MAC dismissed.

Sd/-

(Chandra Bhushan Bajpai)
JUDGE

Aadil