

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1610 of 2016

1. Sabina Choudhari Wd/o Late Shri Nandbaba, aged about 24 years, R/o Village Manikpara, Sitapur, Police Station & Tahsil- Sitapur, District Sarguja, Chhattisgarh(Non-Applicant No.4)

---- Appellant

Versus

1. Tirath Ram Choudhari S/o Shri Batawa Ram Choudhari, Aged About 56 years, Caste- Harijan, R/o Village- Guturama, Police Station- Sitapur, District- Surguja, Chhattisgarh(Applicant No.1)
2. Smt. Fulmaniya W/o Shri Tirath Ram Choudhary, Aged About 51 years, Caste- Harijan, R/o Village- Guturama, Police Station- Sitapur, District- Surguja, Chhattisgarh(Applicant No.2)
3. Ramlal S/o Shri Khaderu Kushawaha, Aged About 56 years, R/o Village- Karaki Mainar (Papi), Police Station- Karama, District- Sonbadra (U.P.), Present Address: Shailendra Cycle Stores, Kharasiya Road, Ambikapur, District Surguja, Chhattisgarh (Driver of Truck No. C.G.15/ A.C.-3903)(Non-Applicant No.1)
4. Pradeep Kumar Shukla S/o Shri Suresh Kumar Shukla, Occupation- Business, Address- through Shailendra Cycle Stores, Kharasiya Road, Ambikapur, District- Surguja, Chhattisgarh (Owner of Truck No. C.G.15/ A.C.-3903)(Non-Applicant No.2)
5. The Branch Manager, the New India Insurance Company Limited, Ambikapur, District- Surguja, Chhattisgarh (Insurer of Truck No. C.G.15/ A.C.-3903)(Non-Applicant No.3)

---- Respondents

For Appellant – Shri Rishi Rahul Soni, Advocate.

For Respondents 1 and 2 – None, though served as per office note.

For Respondents 3 and 4 – Shri Vasant Zokarkar, Advocate.

For Respondent No.5 – Shri Shivendu Pandya, Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

15-02-2017

1. Heard on I.A.No.1/2016 for condonation of delay in filing of appeal as the instant MAC has been preferred by one of the claimants/Non-applicant No.4 (before the concerned Tribunal) after 155 days of its limitation for enhancement and suitable share in amount of compensation.
2. It is submitted that the present appellant is a poor lady dependant upon the deceased and as she was facing financial crisis, a long time has lapsed in managing amount for filing of appeal and also the appellant had no knowledge

for the limitation prescribed for filing of appeal, after arrangement of fund, she preferred the instant appeal. Therefore, the delay is bonafide and unintentional, hence, the delay may be condoned and the appeal may be admitted for hearing. The learned counsel is unable to disclose the facts regarding execution of the awarded amount and the disbursement of said amount by the Court below.

3. Perused copy of the award dated 11-03-2016, it appears that this is certified copy given to the appellant under the seal and signature of Head Copyist, Office of District & Sessions Judge, Ambikapur (Surguja) C.G. There is no disclosure of the fact that where is the copy received by the appellant under the relevant provision of Section 168(2) of the Motor Vehicles Act, 1988. Also there is no any submission regarding execution of the award dated 11-03-2016 and disbursement of said awarded amount as per the award.

4. The appellant is required to satisfy the delay in filing the instant MAC. In the considered view of this Court, the appellant is a poor lady and had no knowledge for the limitation part cannot be held as satisfactory ground and also after consideration of the non-disclosure of above facts, in totality, the appellant failed to satisfy the delay of 155 days. Consequently, I.A.No.1/2016 is hereby dismissed as not maintainable.

5. The MAC is also dismissed being barred by limitation by 155 days.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE