

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 389 of 2018**

1. Smt. Rekha Bai Wd/o Late Kartikram Sahu Aged About 50 Years
2. Mohan Lal S/o Late Kartik Ram Sahu Aged About 24 Years

Both are R/o Village Amadi, Tahsil Dhamtari, District Dhamtari, Chhattisgarh (Claimants)

---- Appellants**Versus**

1. Gendlal Sahu S/o Shri Lakhan Lal Sahu Aged About 33 Years (Driver)
2. Sohan Lal S/o Shri Shiv Prasad Sahu Aged About 38 Years
Both are R/o Village Amadi, Tahsil Dhamtari, District Dhamtari, Chhattisgarh (Owner)
3. The United India Insurance Company Limited, Branch Office, Kachery Chowk, G.E. Road, Raipur, Tahsil And District Raipur, Chhattisgarh (Insurer)

----Respondents

For Appellants	:	Mr. Dashrath Kushwaha, Advocate
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Hon'ble Shri Justice P. Sam Koshy**Order on Board****08/03/2018**

1. Heard on I.A. No. 1, which is an application for condonation of delay.
2. Present is an appeal by the Claimants under Section 173 of the Motor Vehicles Act. The challenge is to the award dated 08.11.2010, passed by the Motor Accident Claims Tribunal, Dhamtari, Chhattisgarh, in Claim Case No. 21/2009.
3. Vide the impugned award the Tribunal in a death case has awarded a compensation of Rs.4,02,000/- with interest @ 6% per annum from the date of application.
4. The appeal has been filed with a delay of 2571 days, thus, there is a delay of about 7 ½ years in filing of the appeal. The appeal is accompanied by I.A. No.1, which is an application for condonation of delay.

5. The only explanation provided is that the appellant is an illiterate lady and that she was not aware of the legal procedures and consequences in filing of the appeal.
6. The ground so raised is totally unacceptable to be a genuine ground for condoning a delay of almost 7 ½ years. The proceeding shows that the Claimants were represented before the Tribunal by a lawyer and in all probability the lawyer must have advised them to prefer an appeal. The Claimants also cannot claim themselves of not having sufficient funds to file an appeal before the High Court as the award does not seem to have been challenged by the Insurance Company and the award must have definitely been honoured by the Insurance Company.
7. It is settled position of law that the appeal has to be preferred within the stipulated period of time and in case of plausible, justifiable and satisfactory reasons available, the delay in filing of the appeal can be condoned. That does not mean that the application for condonation of delay has to be allowed as a matter of right. It is the responsibility of the appellants to establish justifiable and satisfactory reasons, which prevented them in filing of the appeal.
8. It is always expected that even if there is a delay, the delay should have been occurred within the reasonable time. 7½ years is quite a long time for assailing an award, when the award itself in the intervening period has attained its finality.
9. Entertaining such appeals at this belated stage of 7½ years would amount to opening of stale matters and the respondents also would find it difficult to collect information in their defense after such a long period. They must have also meanwhile disposed of the relevant documents in respect of the litigation in due course of time and

entertaining an appeal at this belated stage could also be detrimental to the interest of the respondents.

10. In the given facts and circumstances of the case, this Court is of the opinion that no strong case has been made out by the Claimants for condoning the delay of 2571 days in filing of the appeal. I.A. No.1 therefore deserves to be and is accordingly rejected. As a consequence, the appeal also stands rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved