

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 382 of 2018**

Tiharu Ram Bhardwaj S/o Dhani Ram Bhardwaj Aged About 45 Years
R/o Village Kewradih, Police Station Kharora, District Raipur,
Chhattisgarh (Claimant)

---- Appellant**Versus**

1. Irfan Khan S/o Mohamed Hasim Khan Aged About 43 Years R/o Near Khetan Construction Moudhapara, Police Station Moudhapara, District Raipur, Chhattisgarh (Driver)
2. Kanhaiya Lal S/o Seth Brijesh Lal Kanhaiya Transport Service, 157 Floor, HPCL, Petrol Pump, Mahadeo Ghat Raipur, District Raipur, Chhattisgarh (Owner)
3. Branch Manager The New India Insurance Company Limited, Raipur, District Raipur, Chhattisgarh (Insurer)

----Respondents

For Appellant	:	Mr. A.D. Kuldeep, Advocate
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Hon'ble Shri Justice P. Sam Koshy**Order on Board****08/03/2018**

1. The present is an appeal under Section 173 of the Motor Vehicles Act.
2. The appeal has been filed with a delay of 341 days. Along with the appeal I.A. No.1, which is an application seeking condonation of delay has been filed. The only ground of seeking condonation of delay is the fact that appellant was ignorant of the proceedings of the Court because of his mental agony and suffering caused due to the injury sustained from the accident and hence, he could not file the appeal within time.
3. However, perusal of the record would show that the injury which the Claimant had suffered was not that grievous an injury, but was only an injury of an fracture of elbow of the right hand, which was subsequently treated also.

4. The nature of injury does not show that the Claimant must have undergone such mental agony or pain and suffering during the period of around 341 days, which prevented him from filing of an appeal.
5. Thus, this Court does not find any strong ground made out for condoning the delay and the application for condonation of delay deserves to be rejected on this ground alone.
6. Moreover, even on the merits of the case, this Court does not find any merits as the award seems to be fully in accordance with the judgment rendered by the Hon'ble Supreme Court in the case of "**Rajkumar vs. Ajay Kumar and Another**" reported in **(2011) 1 SCC 343**.
7. Given the facts and circumstances of the case, I.A. No.1 stands rejected. As a consequence the appeal also stands rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved