

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 348 of 2016**

- Reliance General Insurance Company limited, Korba Branch office, through its Legal Manager, Reliance General Insurance Company Limited, 5th Floor, national Corporate House Opposite Maruti Business Park G.E. Road, Raipur C.G.

-----Appellant/Insurer**VERSUS**

1. Gangaram Singour S/o Shri Baratu Singour, aged about 55 years, R/o Motipur, Tahsil Patan, P.S. Kumhari, District Durg, C.G.
2. Leeladhar Dheemar S/o Bisheshar Dheemar, R/o Village Bhatagaura, Bathena, P.S. Patan, District Durg C.G. **-----Driver**
3. M/s K.M.C. Construction & Development Raipur, Amar Chowk, Raja Talab Raipur, District Raipur C.G. **-----Owner**

-----Respondents

For Appellant	:	Mr. Sourabh Sharma, Advocate.
For Respondent 1	:	Mr. P.R. Patankar, Advocate

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****Per Parth Prateem Sahu, J.****13/07/2020**

1. The Appellant-Insurance Company has filed this appeal under Section 173 of the Motor Vehicles Act, 1988, challenging the impugned award dated 28-02-2015 passed in Claim Case No. 59/2013 by Sixth Additional Motor Accident Claims Tribunal, Durg, wherein learned Claims Tribunal allowed the claim application in part and awarded a sum of Rs. 2,63,753/- as compensation in an injury case.
2. Heard on I.A. No. 01/2016 which is an application for condonation of delay in filing the appeal under Section 173 of the Motor Vehicles Act, before this Court. The appeal is barred by 256 days. Perusal of application for condonation of delay would show that the appellant-Insurance Company has taken a ground that due to transfer of Legal Manager of their company Branch to office at Jaipur, office at

Raipur became vacant and no one joined on his place. Only after joining of new Legal Manager, the proceedings for filing the appeal after taking necessary approval etc. was initiated. In the said application, there is no specific mentioning of date as to when Legal Officer was transferred from the office at Raipur and when the new Legal Officer joined on his place. In the application, it is not mentioned that when the proceedings were initiated for taking approvals for filing the appeal by placing relevant document on record. In absence of any material particulars in the application with supporting documents to show *Bonafide* in the action, this Court is of the view that, the appellant failed to show sufficient cause for condoning inordinate delay of 256 days in filing of the appeal. The appeal is liable to be dismissed on the ground of delay itself.

3. So far as, the merits of the appeal are concerned. Facts relevant for disposal of this appeal are that on 21-06-2009 at about 08:00 p.m. when claimant/ Respondent 1 was traveling on his bicycle and going to his village Motipur, at that relevant time, at Sakra road, one matador bearing Registration No. CG 04ZB 1180 (referred to as "offending Matador") driven by Respondent 2 rashly and negligently dashed the bicycle of Respondent 1. In the aforementioned accident, bicycle of Respondent 1 entangled with bonnet of the offending Matador and Respondent 1 along with his bicycle dragged to some distance. In the aforementioned accident, Respondent 1 claimant suffered grievous injuries over both his legs along with injury on his back, the accident was reported to concerned police station based on which, the crime was registered against Respondent 2 -driver of offending Matador and after completion of investigation, final report was also submitted before the Judicial Magistrate, First Class, Patan, District Durg C.G. Respondent 1 claimant filed an application under Section 166 and Section 140 of the Motor Vehicles Act, claiming compensation of Rs. 6,70,000/- on account of injuries suffered by him on the ground mentioned therein.

4. Respondent 2/ Non-applicant 1 driver of the offending Matador denied the

pleadings made in the claim application and pleaded that it is not him who drove his vehicle rashly and negligently, on the date of accident but the claimant. Offending Matador was insured with Respondent 3-Insurance Company and the liability, if any, for payment of amount of compensation will be upon Insurance Company.

5. Respondent 3/ Non-applicant 2 owner of the offending Matador did not appear before the learned Claims Tribunal and he was proceeded ex parte.
6. As per the order sheet recorded by the Tribunal, 22 opportunities were granted to Appellant/ Non-applicant 3-Insurance Company for submission of reply to the claim application but the Company had not submitted the same and right to file reply was closed on 18-07-2013. From the record, it does not appear that the order of closure of right to file reply was made to challenge by the Appellant-Insurance Company and in absence of any challenge, the order of Claims Tribunal dated 18-07-2013 became final. In absence of any reply to the claim application or the defence before the learned Claims Tribunal, the appellant-Insurance Company cannot be permitted to raise technical ground that the offending Matador was not insured by it and the copy of policy which is available on record is a forged document for the first time before this Court.
7. For the foregoing reasons, we do not find any merit in this appeal. Consequently, it is dismissed on the ground of delay as well as on merits.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge