

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 1591 of 2017**

- I C I C I Lombard General Insurance Co. Ltd. Through Its Legal Manager, Vaniya Bhawan, First Floor, Devendra Nagar, Raipur, Chhattisgarh

**---- Appellant****Versus**

1. Panchram Rathia S/o Shri Ghasia Rathia, Aged About 60 Years R/o Village Saraipali, Thana Chakradhan Nagar, Tehsil And District Raigarh, Chhattisgarh
2. Ishwarlal @ Ashok S/o Shri Aatmaram Yadav, Aged About 30 Years R/o Village Bhaigadi, Tehsil And District Raigarh, Chhattisgarh. Driver And Owner, District : Raigarh, Chhattisgarh

**---- Respondents**


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|-----------------------------------|---|---------------------------------|
| For Appellant / Insurance Company | : | Shri Amrito Das, Advocate       |
| For Respondent No.1               | : | Shri Anand Kesharwani, Advocate |

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**S.B.: Hon'ble Shri Justice Sanjay K. Agrawal****Order On Board****29/11/2021**

1. The appeal filed by the Insurance Company called in question the legality, validity and correctness of award dated 08/07/2016 by which the Tribunal awarded compensation to the tune of Rs.3,71,705/- to the respondents / claimants herein in which, there is delay of 394 days in preferring the appeal.
2. On the application for condonation of delay in filing appeal, Shri Amrito Das, learned counsel for the appellant would submit that on account of delay in taking decision, some delay occurred and thereafter, file sent to the counsel was misplaced during transit, therefore, the appeal could not be filed in time and the delay occurred is bonafide and deserves to be condoned.

3. Learned counsel for respondent No.1 would submit that no sufficient cause has been shown for delay.

4. I have heard learned counsel for the parties, considered their rival submissions made herein above and also went through the records with utmost circumspection.

5. In para 3 of the application for condonation of delay in filing appeal, it is stated as under -

“3. That the short delay in preferring the instant appeal is wholly bonafide on account of inadvertence. That the short delay caused had occasioned from the procedural held-ups. It is owing to the said delay that the appeal could not be filed within the stipulated time and there was this short delay occasioned. Moreover, some time was consumed at the management level in order to decide for preferring the instant appeal. After obtaining the permissions, the papers were sent to the counsel for the appellant at Bilaspur. However, due to the change in address of the residence of the counsel, the documents would not reach the counsel and the same were misplaced. It was for the said reason that the copy of the award as was available with the counsel before the Tribunal was sought for and thereafter, the present appeal has been preferred.”

6. A careful perusal of the reasons mentioned in the application for condonation of delay noticed herein above would show that there was procedural delay as well as delay in taking decision. Thereafter, file was misplaced due to change in residential address of the counsel for the Insurance Company. But except bare statement, no details have been given. As such, reasons assigned in paragraph 3 of the application for condonation of delay

would not constitute sufficient cause under Section 5 of the Limitation Act. Accordingly, I.A.No.1/17, application for condonation of delay in filing appeal is rejected. Consequently, MAC No.1591/2017 is also dismissed.

Sd/-  
( **Sanjay K. Agrawal** )  
**Judge**