

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.363 of 2020

Manager, The New India Assurance Co. Ltd. ***Appellant***

Mr.S.A.Alli, Advocate

-versus-

ODI Sunder Rao @ Sunder Murty and another ***Respondents***

Mr.P.K.Mishra, Advocate for Respondent No.1

**CORAM:
JUSTICE B. P. ROUTRAY**

**ORDER
22.3.2022**

Order No.

4.

I.A.No.201 of 2022 & MACA No.363 of 2020

1. Heard Mr.Alli, learned counsel for the Appellant and Mr.Mishra, learned counsel for claimant-Respondent No.1.

2. Present appeal by the Insurer is directed against judgment dated 14th August, 2018 passed by learned 2nd MACT(SD), Berhampur in M.A.C. Case No.4 of 2015, wherein compensation to the tune of Rs.1,73,000/- along with interest @6% per annum has been granted on account of the injuries sustained by the claimant in the motor vehicular accident dated 20th April, 2004.

3. The appeal was filed on 22nd May, 2020 with delay of 547 days.

4. I.A.No.201 of 2022 has been filed praying to condone the delay.

5. Mr.Alli, learned counsel for the Appellant submits that due to official process, the delay occurred in filing the appeal, which should be condoned keeping in view the merit of the appeal where the Appellant is not at all liable to pay compensation. In support of his submission, Mr.Alli further submits that since the vehicle in question was taken on requisition by the State Government for election duty, the Insurer is not liable to indemnify the compensation and it is the sole responsibility of the State to pay compensation. The decision in the case of **National Insurance Co. Ltd. v. Deepa Devi and others, 2008(1)C.J.D. (SC) 257** of the Supreme Court has been relied upon by the Appellant in support of his submission.

6. Looking to the question of limitation before getting into merits of the appeal, it reveals from the petition in I.A.No.201 of 2022 that the same does reveal any detailed or specific explanation for condoning the delay of 547 days. The only ground taken at paragraphs 2 & 3 of the said petition that the judgment copy in M.A.C. Case No.4 of 2015 was sent for scrutinization to the Divisional Office and the appeal was filed upon receipt on instruction from the Divisional Office. Admittedly, the compensation in question awarded in favour of the claimant is not a huge amount.

7. Since the grounds mentioned in the petition are not found satisfactory for condoning the delay in preferring the appeal, the limitation is not condoned.

8. In the result, the appeal is dismissed on the ground of limitation.

9. The statutory deposit made by the Appellant with accrued interest thereon be refunded to him on proper application and on production of proof of deposit of the award amount before the learned Tribunal.

10. Urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge



CRBiswal