

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.256 of 2022

Surendra Mohanty and Others ***Appellants***

Mr. Ajaya Kumar Pradhan, Advocate

-versus-

Sarat Chandra Rath and Another ***Respondents***

Mr. A.A. Khan, counsel for Respondent No.2

CORAM:

SHRI JUSTICE B. P. ROUTRAY

ORDER

19.10.2022

Order No.

I.A. No.565 of 2022 & MACA No.256 of 2022

- 02.
1. The matter is taken up through hybrid mode.
 2. Heard Mr. A.K. Pradhan, learned counsel for the claimant – Appellants and Mr. A.A. Khan, learned counsel for insurer – Respondent No.2.
 3. Notice on Respondent No.1 is treated sufficient in view of the office note and the postal tracking report.
 4. The appeal has been filed with delay of 1629 days. As stated in the limitation petition and submitted by Mr. Pradhan, the entire delay is caused due to laches on the part of conducting lawyer before the tribunal. It is said that he never informed the claimants about dismissal of the claim application. But from another lawyer the claimants came to know about such dismissal of their claim application on 16th May, 2022 only, i.e. near about four and half years after.
 5. This explanation offered on behalf of the claimants is not at all found satisfactory. It is very easy to shift burden on the conducting

counsel that he did not inform the party at appropriate time. Such explanation without any supporting material is not found at all acceptable as sufficient reason to condone the delay, that too for 1629 days.

6. Moreover, as seen from the impugned judgment, the F.I.R. was lodged on 6th August, 2008, i.e. around 10 months after the alleged occurrence as the alleged accident took place on 6th November, 2007. It is the consistent case of the Opposite Parties in the claim application that the deceased died by falling from his bicycle at the speed breaker on the road and the offending vehicle was never involved in the accident. The claimants did not turn up despite repeated directions issued and opportunities granted by the tribunal.

7. Nevertheless, the explanation offered and the reasons stated to condone the delay being not found convincing, I am not inclined to condone such huge delay in preferring the appeal. Accordingly, the limitation petition is rejected.

8. Consequently, the appeal is also dismissed on the ground of limitation.

(B.P. Routray)
Judge