IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.259 of 2003

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1. Serajul Haque, son of Nathuni Mian.
2. Sibak Tara, wife of Srajul Haque.

Both of resident of village- Jaymalesa, P.S.- Thawe, District- Gopalganj.

... ... Appellants

Versus

1. National Insurance Company, Raiganj, West Bengal Babunia Road Siwan, through Sanjay Kumar A.O. Authorised signatory cum duly constituted Attorney National Insurance Regional Office 4th Floor sone Bhawan, B.C.-Road Patna.
2. Oriental Insurance Company, Raiganj, West Bengal.

... ... Respondents

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Appearance :

For the Appellant/s : Mr. Dhananjay Kumar, Advocate
For the Respondent/s : Mr. Durgesh Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

17 16-01-2023 Heard learned counsel for the appellants as well as learned counsel for the National Insurance Company (respondent no. 1) and Oriental Insurance Company (respondent no. 2).

I.A. No. 4970 of 2004

This application has been filed under Order XLI Rule 20 and Section 151 of the Code of Civil Procedure praying therein to insert the name of respondent nos. 1 to 8 in the memo of appeal. Learned counsel submits that they are only formal parties and inadvertently, the name of those respondent nos. 1 to 8 could not be inserted in the memo of appeal.

Learned counsel for the Insurance Companies does not dispute the contention of learned counsel for the appellants.

In these circumstances, this interlocutory application is allowed.

I.A. No. 3142 of 2003

This application has been filed seeking condonation of delay of 15 days in filing of the appeal.

Learned counsel for the appellants submits that after the judgment was pronounced, the appellant had fallen ill and recovered from illness only in the month of September, 2002 whereafter under some wrong legal advice, he could not file the appeal within time. It is stated that the appellants are poor persons and not fully literate, for all these reasons, the delay has occurred.

Learned counsel submits that appellant nos. 1 and 2 are husband and wife respectively. It was appellant no. 1 who was actually looking after the *Pairvi* of the case. The appellant no. 2 being a *pardanasi* lady was not capable of pursuing the matter. It is for these reasons that the delay has occurred.

Mr. Durgesh Kumar Singh, learned counsel for the Insurance Companies has though opposed the application but considering the nature of the reliefs prayed in this case and the status of the appellants who are said to be poor persons and illiterate, this Court is inclined to believe the reasons shown for condonation of delay.

This application is, thus, allowed.

On Merit:-

Learned counsel for the appellants submits that the appellants have moved this Court being aggrieved by and dissatisfied with the judgment dated 30.04.2002 and the award dated 24.05.2002 passed by learned Additional Claim Tribunal cum Additional District Judge-III, Gopalganj in Claim Case No. 19 of 1999/32 of 2001, limited on the point that the learned Claim Tribunal while allowing the claim was obliged to allow interest with effect from the date of filing of the claim. The grievance of the appellants is that the learned Tribunal has allowed interest at the rate of 9% per annum but from the month of September, 2001 till recovery of the same.

Learned counsel submits that in this case, the claim petition was filed before the learned Tribunal on 22.07.1999.

Referring to the judgments of the Hon'ble Supreme Court in the case of **(2009) 6 SCC 121** and **National Insurance Co. Ltd. Vs. Pranay Sethi & Ors.** reported in **(2017) 16 SCC 680** and **Magma General Insurance Company Ltd. Vs. Nanu Ram @ Chuhru Ram and Others** reported in **(2018) 18 SCC 130**, learned counsel submits that the Hon'ble Supreme Court has taken consistent view and allowed interest from the date of filing of the claim petition.

Mr. Durgesh Kumar Singh, learned counsel for the Insurance Companies has contested the submissions saying that it is the discretion of the learned Tribunal to allow interest from a particular date. Learned counsel, however, is not in a position to deny that the consistent views of the Hon'ble Supreme Court is to allow interest from the date of filing of the claim petition.

Having heard learned counsel for the appellants and learned counsel for the Insurance Companies and upon perusal of the judgments of the Hon'ble Supreme Court, this Court is of the considered opinion that the correct approach would be to allow interest from the date of filing of the claim and pendency of the claim petition before the learned Tribunal or the court as the case may be, for long time for no fault on the part of the claimants shall not deprive the claimants from getting interest over the claim amount which in ultimate analysis, the claimant/claimants is/are found entitled to.

In result, this appeal is allowed to the extent that both the Insurance Companies shall pay interest over the awarded amount with effect from the date of filing of the claim until the payment of the award amount to the claimants. Both the companies shall share the burden equally.

This appeal stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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