

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.194 of 2022

The Oriental Insurance Company Limited at Branch Office, V.I.P. Road, Purab Bazar, Saharsa through the Constituted attorney the Deputy Manager, T.P. Hub Incharge at Regional Officer, The Oriental Insurance Company Limited, Pirmuhani, Patna.

... .. Appellant/s

Versus

1. Bhagmani Devi W/o Late Shibdutt Ram @ Shibghati Manjhi, Resident of Village- Renua, Post and Police Station- Husainganj, District- Siwan.
2. Daroga Kumar, S/o Late Shibdutt Ram @ Shibghati Manjhi, Resident of Village- Renua, Post and Police Station- Husainganj, District- Siwan.
3. Mithilesh Kumar S/o Late Shibdutt Ram @ Shibghati Manjhi Resident of Village- Renua, Post and Police Station- Husainganj, District- Siwan.
4. Shila Kumari D/o Late Shibdutt Ram @ Shibghati Manjhi, Resident of Village- Renua, Post and Police Station- Husainganj, District- Siwan.
5. Mira Kumari D/o Late Shibdutt Ram @ Shibghati Manjhi Resident of Village- Renua, Post and Police Station- Husainganj, District- Siwan.
6. Meer Hasim S/o Meer Mazahar, Resident of at Saharsa Basti, Police Station- Saharsa, District- Saharsa. (Owner of the Offending Truck Bearing Reg. No. BR 19 8559)

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Sumit Kumar, Adv
For the Respondent/s	:	Mr. Gyanendra Kumar Shukla, Adv
		Mr. Sushil Kumar, Jha
		Mr. Shantanu Jha
		Mr. Shailendra Kumar Sinha Adv
		Mr. Arun Kumar, Adv

CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA

ORAL ORDER

4 21-04-2025 Heard learned counsel for the appellant and
learned counsels for the respondents.

I.A. No. 01 of 2022

2. The present interlocutory application has been filed for condonation of delay of 2315 days in filing the present appeal against the order/judgment dated 27.06.2015 and award dated 11.06.2016 passed in Claim Case No. 25 of 2008 by the



Additional District Judge, Adhoc-II-cum-Motor Vehicle Accident Claim Tribunal, Madhepura in which compensation has been awarded against the appellant.

3. Learned counsel for the appellant submits that the appellant was not aware of the passing of the award and as soon as he came to know that the award had been prepared in this case, he applied for certified copy of the award and other relevant documents. After obtaining the same, some time was lapsed in taking administrative decisions and as the country was facing Covid-19 Pandemic, therefore, a considerable period lapsed before obtaining approval for filing appeal before this Court.

4. Learned counsel for the respondent raised preliminary concern and submitted that no necessary action had been taken by the appellant within the prescribed period of limitation for preferring this application. Further, learned counsel submitted that the action of the appellant is mala-fide, illegal, arbitrary as well as not in accordance with law. He submitted that the present petition is apparently time barred and not maintainable as it has been filed by the appellant after a delay of 2315 days just to avoid payment in the form of compensation which the respondent was legally entitled to.



4.i. He submitted that the appellant was fully aware of the award granted by learned Tribunal as they were a necessary party and they contested the case before the Tribunal. It is significant to mention here that the award was granted by the learned Tribunal before Covid-19 pandemic in which appellant was opposite party, and moreover, he was also a party to the Execution Petition 15 of 2019 which was filed on 09.02.2016. Thus, the statement made by the learned counsel for the appellant that he was not aware of the award and delay in filing the appeal due to Covid-19 is false of frivolous.

4.ii. Learned counsel for the respondent, in support of his argument, quoted judgment of Apex Court in ***Basawaraj and Anr. V. Special Land Acquisition Officer 2013 14 SCC 81*** whose relevant paragraph is mentioned herein-below:

The law on the issue can be summarized to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No



court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any 9 justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.

4.iii. He further submitted that the present appeal is time barred, frivolous and just to linger the legitimate claim of the respondent which is fit to be rejected in the interest of justice.

5. Having perused the submissions of the learned counsels and the material on record, it is observed that the award of the Tribunal was passed on 11.01.2016 and the interlocutory application for condonation of delay was filed by the appellant on 13.05.2022. The time period for filing an appeal against the judgment and award of the Motor Vehicle Accident Claim Tribunal as per Section 173 of the Motor Vehicles Act, 1988 is 90 days. Section 173 reads as follows:

*173. Appeals. - (1) Subject to the provisions of sub-section (2), any person aggrieved by an award of a Claims Tribunal may, within **ninety days** from the date of the award,*



prefer an appeal to the High Court:

Provided that no appeal by the person who is required to pay any amount in terms of such award shall be entertained by the High Court, unless he has deposited with it twenty-five thousand rupees or fifty per cent. of the amount so awarded, whichever is less, in the manner directed by the High Court:

Provided further that the High Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

6. From perusal of the material on record it is clear that the period of limitation for filing of the appeal expired before the onset of the Covid-19 Pandemic. The Supreme Court in ***Re: Cognizance for Extension of Limitation [Suo Moto Writ Petition (C) No. 3 of 2020*** has excluded the period from 15.03.2020 till 28.02.2022 from the period of limitation. The Court held that:

“In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded.”

7. In the instant case however, the period of limitation expired much before 15.03.2020 and thus the appellant cannot be granted the benefit of limitation on account of the pandemic. Moreover, no sufficient cause has been shown by the appellant to explain the long delay in filing the appeal



and neither have they properly explained the reason which prevented them from filing a suit or appeal within the prescribed time limit. As the appellant was not vigilant throughout the period, the plea for condonation of delay cannot be accepted. The I.A. No. 01 of 2022 thus stands rejected.

8. Accordingly, the present Miscellaneous Appeal No. 194 of 2022 stands dismissed.

(Ramesh Chand Malviya, J)

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