GAHC020006702023 2025:GAU-NL:17

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
KOHIMA BENCH

Case No. : I.A.(Civil)/145/2023

M/S ICICI LOMBARD GENERAL INSURANCE CO LTD
KAMAKHYA TOWER,
3RD FLOOR, GS ROAD,
DISTRICT KAMRUP (M), GUWAHATI 781022, ASSAM REPRESENTED
BY ITS LEGAL MANAGER SRI PRASANNA BORAH

VERSUS

SMTI. NIKUNJALI LIGIRA @ NKU MARANG LIGIRA AND 5 ORS
W/O LATE MRIDUL LIGIRA

2:MISS NIHARIKA LIGIRA
D/O LATE MRIDUL LIGIRA

3:SHRI DHRUBAJYOTI LIGIRA
S/O LATE MRIDUL LIGIRA

4:SHRI SUREN LIGIRA
S/O LATE AKAN LIGIRA

5:SMTI. DHANESWARI LIGIRA
RESIDING AT TUENSANG TOWN BAZAR AREA
TUENSANG
NAGALAND-798626

6:SHRI MAINA DHURUKAI GOGOI
S/O LATE DHURUKAI GOGOI VILL-NO.3 SIMALUGURI-1
P.O.SIMALUGURI
P.S-BIHPURIA
DIST-LAKHIMPUR
PIN-784165

ASSA

Advocate for the Petitioner : SUMI KAKATI,

Advocate for the Respondent : ,

Linked Case : MC(C)/2/2023

M/S ICICI LOMBARD GENERAL INSURANCE CO LTD

KAMAKHYA TOWER

3RD FLOOR
GS ROAD

DISTRICT- KAMRUP (M)

GUWAHATI-781022
ASSAM REPRESENTED BY ITS LEGAL MANAGER SRI PRASANNA

VERSUS

SMTI NIKUNJALI LIGIRA @ NKU MARANG LIGIRA AND 4 ORS
W/O LATE MRIDUL LIGIRA

2:MISS NIHARIKA LIGIRA

D/O LATE MRIDUL LIGIRA

3:SHRI DHRUBAJYOTI LIGIRA

S/O LATE MRIDUL LIGIRA

4:SHRI SUREN LIGIRA

S/O LATE AKAN LIGIRA

5:SMTI. DHANESHWARI LIGIRA

RESPOPNDENT NO 2 AND 3 ARE MINOR OF DECEASED AND 4 ND 5 ARE THE AILING PARENTS OF THE DECEASED AND AS SUCH ALL ARE REPRESENTED BY RESPONDENT NO 1 RESIDING AT

TUESANG TOWN BAZAR AREA

TUENSANG
NAGALAND
PIN 798626

6:SHRI MAINA DHURUKAI GOGOI

S/O LATE DHURUKAI GOGOI

VILL NO.3
SIMALUGURI 1

P.O SIMALUGURI
P.S BIHPURIA
DIST LAKHIMPUR
PIN 784165
ASSAM

Advocate for : SUMI KAKATI
Advocate for : B. N. SARMAH appearing for SMTI NIKUNJALI LIGIRA @ NKU MARANG LIGIRA AND 4 ORS

BEFORE
HON'BLE MR. JUSTICE BUDI HABUNG

ORDER

30.01.2025

No one appears on behalf of the applicant on call. However, Mr. Imtiwapang, learned counsel for the respondent/claimant nos. 1, 2, 3, 4 and 5 is present.

2. This is an application filed under Section 5 of the Limitation Act, 1963 for condonation of delay of 59 (fifty-nine) days in preferring the accompanying Misc Case for restoration of I.A.(Civil)/85/2022 and MACAppeal/04/2022.

3. The learned counsel for the respondents submits that earlier, the MACAppeal/04/2022 was dismissed for non-prosecution; and in view of the dismissal of the main appeal, the I.A.(Civil)/85/2022 in MACAppeal was also disposed of. He further submits that the applicant has filed these applications only to delay the payment of the awarded amounts.

4. The record reveals that after filing this condonation petition, the applicant has been delaying either by seeking adjournment or by remaining absence. The applicant remained absent on 08.02.2024, 26.03.2024, 07.05.2024, 30.05.2024 and today also the applicant is not represented by any counsel.

5. I have also gone through the contents of the condonation application. The grounds set for not preferring the connected application for restoration of the connected appeal within the stipulated time has been explained in paragraph- 4, 5 and 6 of the application. Upon perusal of the grounds cited in the above paragraphs, this Court is not satisfied and convinced with the explanation given by the applicant warranting condonation of delay in filing restoration petition. The learned counsel for the respondents/claimants nos. 1 to 5 submits that the applicants have been very callous in the case. He pointed out that there is an inherent defect in the affidavit declared by the applicant. The paragraph 3 of the affidavit shows that it was a declaration in the bail application and not in the present application. The pragraph-3 of the affidavit is reduced below for ready reference:

> "*3. That the documents annexed to this bail application are true copies of the originals and of the copies as made available to or obtained by the*

petitioner and as such are believed to be true copies of the originals."

For the reasons stated above, the learned counsel for the respondents/claimants prays for dismissal of the application.

6. Heard Mr. Imtiwapang, learned counsel for the respondent/claimant nos. 1 to 5. I have also gone through the petition, the affidavit and the documents on record.

7. Upon hearing and taking into note of the explanation given for delay in filing the application and for the reasons as stated above, this Court is not inclined to condone the delay in filing this application in filing the restoration petition.

8. Accordingly, this I.A.(Civil)/145/2023 stands dismissed.

JUDGE

Comparing Assistant