CNR No.: SKHC01-000087-2026

THE HIGH COURT OF SIKKIM: GANGTOK

(Civil Appellate Jurisdiction)

SINGLE BENCH: THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

I.A. No.01 of 2026
IN
MAC App. No. 13 of 2026

The Branch Manager,
United India Insurance Company Limited,

A Company incorporated under the Companies Act, 1956,
Having its Branch Office at
NH-10, Deorali Bazar, Gangtok, Sikkim,

..... Applicant

Versus

1. Puja Kumari,
Wife of Late Rajesh Sharma *alias* Pappu,
Aged about 27 years,

2. Aliya Sharma,
Daughter of Late Rajesh Sharma *alias* Pappu,
Aged about 10 years.

(Being a minor represented through her mother and
natural guardian, Smt. Puja Kumari, Respondent No.1 herein).

3. Bittu Kumar,
Son of Late Rajesh Sharma *alias* Pappu,
Aged about 10 years.

(Being a minor represented through his mother and
natural guardian, Smt. Puja Kumari, Respondent No.1 herein).

All presently residing at:
Middle Tarku, District Namchi, Sikkim
P.O. and P.S. Temi, Namchi, Sikkim,
Pin Code-737 134.

..... Respondents/Claimants

4. M/s Vinod Kumar Jain,
Temi Tarku, P.O. and P.S. Temi,
Namchi, Sikkim
Pin Code-737134.

..... Respondent/Owner

5. Ram Singh,
Son of Shiv Raj,
Aged about 40 years,
Resident of Anetha, Mohb, Pur Painsa,
Sirathu, Kaushambi, Uttar Pradesh.

Presently residing at: Middle Tarku
P.O. and P.S. Temi, Namchi District Sikkim.
Pin Code-737134.

..... Respondent/Driver

Application under Section 173 (1) of the Motor Vehicle Act, 1988 read with Section 5 of the Limitation Act, 1963 for Condonation of Delay.

{Against the impugned Judgment dated 21.10.2024 of the Learned Member, Motor Accidents Claims Tribunal, At Gangtok, Sikkim.}

Appearance:

Mr. Pramit Chhetri, Advocate for the Applicant.

Mr. Rahul Rathi, Advocae for the Respondent Nos. 1 to 3.

Mr. Prem Simon Chettri, Advocate for the Respondent No.4.

None for the Respondent No.5.

Date of Hearing : 23.11.2026

Date of Order : 23.11.2026

Date on which uploaded : 24.11.2026

O R D E R (O R A L)

Bhaskar Raj Pradhan, J.

1. The Learned Counsel for the applicant seeks condonation of delay admittedly of 492 days in presenting the present appeal. The impugned judgment was passed on 21.10.2024. A perusal of the judgment reveals that all the parties were represented by their respective counsel. An appeal against a judgment of the learned

Tribunal is required to be preferred within 90 days from the date of the award under section 173 (1) of the Motor Vehicles Act, 1988.

2. The learned counsel for the applicant seeks to explain the delay in this manner: the officer coordinating the case with the learned counsel retired on 31.12.2024 and thereafter a new officer in his place joined on 07.01.2025; it is further submitted that the claimants filed an execution petition on 24.03.2026 and thereafter the applicant learned about the impugned judgment only when the summons of the execution petition was served upon the applicant; on 08.04.2026 the applicant obtained a copy of the impugned judgment from the online portal; thereafter on 10.04.2026 the applicant applied for the certified copy of the impugned judgment and received it on 28.04.2026; accordingly, on 30.04.2026, a legal opinion was sought which was given on 05.05.2026; on 25.05.2026 the present appeal was filed with an application for condonation of delay seeking condonation of 492 days.

3. The facts asserted are not supported by any contemporaneous documentary evidence except for an appointment letter of Naren Barman dated 07.01.2025 which records the retirement of Ms. Latika Sarkar on 31.12.2024.

4. The claimants have filed a response to the averments made in the application for condonation of delay. Mr. Rahul Rathi, learned Counsel for the claimants submits that the application has failed to show any sufficient cause for condonation of delay and in fact the application reflects gross negligence and institutional callousness on the part of the applicant. Additionally, Mr. Rahul Rathi submits that

the execution proceeding has been completed and the applicant has also satisfied the award by making the payment to the claimants. It is pointed out that the claimants no. 1, 2, and 3 are widow and minor children of the deceased respectively and in such circumstances, the application for condonation of delay must be rejected.

5. Under normal circumstances, courts are usually liberal in condoning delay if it is sufficiently explained because it is always in the interest of justice that the case is decided on the merits of the case and not be thrown out on the ground of being barred by the law of limitation. However, under the law of limitation which although is a procedural law, once a claim becomes time barred a valuable substantive right accrues in favour of the claimants and if the applicant fails to explain the delay substantially and sufficiently, the courts would be skeptical as to whether condoning the delay in the circumstances of the case would serve justice. In the factual circumstances of the case it is apparent that in spite of the fact that the trial was conducted by a counsel representing the applicant, they failed and neglected to take appropriate steps to seek redressal on time. Admittedly, even after the applicant learned about the filing of the execution petition on 24.03.2026 the appeal was filed only on 25.05.2026 after two months. The impugned judgment is dated 21.10.2024. Admittedly during the trial the applicant was represented by a counsel who on 07.07.2024 sought permission to retire. Admittedly again another counsel was appointed in his place who conducted the case till 21.10.2024. The retirement of Ms.

Latika Sarkar on 31.12.2024 does not explain why no effort was made to challenge the impugned judgment dated 21.10.2024. The only reason sought to be given is that the counsel and Ms. Latika Sarkar were unable to exchange communication regarding the disposal of the matter. The explanation sought to be made out by the applicant in the present case seems more an attempt to make out a case rather than project the real reason for the delay. The circumstances placed before this Court by the applicant when considered cumulatively suggest lack of sincerity even if I attempt to view these circumstances liberally. The applicant is the United India Insurance Co. Ltd. and not an ordinary litigant who seeks to explain the delay in the manner as sought in the application and therefore, perhaps it does reflect institutional callousness as submitted by the learned counsel for the claimants.

6. Sufficiency of cause must reflect seriousness of purpose and sincerity. Both are lacking in the present application. In view of the facts that the execution proceedings have come to an end and the payment has also been made to the claimants, I think this is a fit case where the application for condonation of delay ought to be rejected and the lis brought to an end giving a quietus to the issue.

7. Accordingly, the I.A. No.1/ 2026 is rejected as well as the MAC Appeal No. 13/2026 along with all pending interlocutory applications.

(Bhaskar Raj Pradhan)
Judge

to/ Approved for reporting :**Yes**