GAHC010140402020

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

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

NEW INDIA ASSURANCE CO LTD
HAVING ITS REGD. OFFICE AT NEW INDIA ASSURANCE BUILDING 87
MAHATMA GANDHI ROAD
MUMBAI AND ONE OF THE NORTH EAST REGIONAL OFFICE AT ULUBARI
G.S. ROAD
GUWAHATI
ASSAM.

VERSUS

ON THE DEATH OF TILEIMAI DAS
HER LEGAL HEIRS BIPUL DAS AND ORS.

1.1:SRI BIPUL DAS

S/O LATE TELEIMAI DAS

R/O GOSAIGAON
P.O. AND P.S. MANAGALDOI
DISTRICT DARRANG
ASSAM.

1.2:SRI RAMEN DAS

S/O LATE TELEIMAI DAS

R/O GOSAIGAON
P.O. AND P.S. MANAGALDOI
DISTRICT DARRANG
ASSAM.

1.3:SRI KANISHTA DAS

S/O LATE TELEIMAI DAS

R/O GOSAIGAON
P.O. AND P.S. MANAGALDOI
DISTRICT DARRANG
ASSAM.

1.4:SRI RUBUL DAS

S/O LATE TELEIMAI DAS

R/O GOSAIGAON
P.O. AND P.S. MANAGALDOI
DISTRICT DARRANG
ASSAM.

2:BRANCH MANAGER

UCO BANK
MANGALDOI BRANCH
LNB ROAD
P.O. AND P.S. MANGALDOI
DISTRICT DARRANG
ASSAM.

Advocate for : MR. R K BHATRA
Advocate for : MR. T J MAHANTA appearing for ON THE DEATH OF TILEIMAI DAS

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : --04.11.2026

Heard Mr. R.K. Bhatra, learned counsel for the applicant and Ms. P. Bhattacharjee, learned counsel for the opposite party nos. 1[a] to 1[d].

2. Both Mr. Bhatra and Ms. Bhattacharjee have submitted that the notice issued to the opposite party no. 2 was duly served on 30.03.2026.

3. None has appeared for the opposite party no. 2 till date.

4. The instant interlocutory application under Section 5 of the Limitation Act, 1963 is preferred seeking condonation of delay of 199 days, which period of delay is stated to have occurred in filing the accompanying interlocutory applications, I.A.[C.] no. 2024/2023 and I.A. [C.] no. 2025/2023 seeking setting aside of abatement and for substitution of the legal heirs and representatives of the deceased, Tilemai Das.

5. In so far as the relevant facts are concerned, the deceased, it may be stated that the deceased, Tilemai Das preferred an appeal under Section 173, Motor Vehicles Act, 1988 against a Judgment and Award dated 05.01.2015 passed by the Motor Accident Claims Tribunal, Darrang at Mangaldoi ['the Claims Tribunal', for short] in MAC Case no. 144/2013, whereby the Claims Tribunal awarded a sum of Rs. 3,13,000/- as compensation for the death of one Pradip Das in a motor vehicle accident. The deceased, Tilemai Das was the mother of Pradip Das.

6. By an Order dated 13.03.2019, the appeal, MAC Appeal no. 195/2015 was allowed holding that the appellant, Tilemai Das would be entitled to an enhanced amount of Rs. 2,10,600/- in addition to what was already awarded by the Claims Tribunal vide its Judgment and Award dated 05.01.2015. Accordingly, the payment of the enhanced amount with interest @6% per annum from the date of the claim application i.e. 06.06.2013 till the date of deposit was directed.

7. Aggrieved by the Order dated 13.03.2019 [supra], the applicant herein, who is the alleged insurer of the offending vehicle, filed a review petition under Section 114, CPC r/w Order 47, Rule 1 & 2, CPC r/w Section 151, CPC seeking review of the Order dated 13.03.2019. As there was delay of 337 days in filing the review petition, the applicant also filed an interlocutory application under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 337 days. The said interlocutory application for condonation of delay has been registered and numbered as I.A.[C.] no. 2070/2020. On 04.01.2021, notices were issued to the opposite parties wherein Tileimai Das was made opposite party no. 1.

8. It is submitted that subsequent of the disposal of the MAC appeal on 13.03.2019, it came to the knowledge of the applicant that before the Claims Tribunal, a review application

seeking review of the Judgment and Award dated 05.01.2015 passed by the Claims Tribunal was filed. The said review application was, however, dismissed by the Claims Tribunal on 15.02.2020.

9. Aggrieved by and dissatisfied with the Order dated 15.02.2020 passed by the Claims Tribunal in the review application, the applicant preferred the accompanying civil revision petition, CRP no. 68 of 2020.

10. It is stated that during pendency of the application, I.A.[C.] no. 2070/2020, Tilemai Das expired on 27.08.2022. It is averred in the interlocutory application that the fact that Tilemai Das expired on 27.08.2022 came to the knowledge of the applicant only on 12.04.2023.

11. The four opposite parties impleaded as opposite party nos. 1[a] to 1[d] are the legal heirs and representatives of Tilemai Das.

12. The provisions of Order 22 requires that an application for substitution is to be preferred within a period of ninety days and in the event such an application for substitution is not preferred within a period of ninety days from the date of death of an opposite party then an application seeking setting aside of abatement is required to be filed within the period of next sixty days. If the period of 150 days [= 90+60] days is over then, the applicant is required to file an application for condonation of delay showing sufficient cause.

13. Mr. Bhatra, learned counsel appearing for the applicant has referred to the statements and averments in the interlocutory application, more particularly, paragraphs 2 and 3 thereof to submit that the applicant has explained the reasons showing sufficient cause regarding the period of delay of 199 days.

14. Ms. Bhattacharjee, learned counsel who earlier appeared for Tileimai Das, and is presently representing the opposite party nos. 1[a] to 1[d] has submitted that the opposite parties have no objection if the period of delay of 199 days is condoned.

15. I have gone through the statements and averments made in the application and having gone through the same, I am of the view that the applicant has been able to show the

reasons explaining the delay of 166 days in filing the application showing sufficient cause.

16. In view of the above, the instant application is allowed condoning the delay of 199 days in preferring the accompanying interlocutory applications, I.A.[C.] no. 2024/2023 and I.A.[C.] no. 2025/2023.

JUDGE

Comparing Assistant