GAHC010272922023

2026:GAU-AS:16016

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

Case No. : I.A.(Civil)/2379/2024

ORIENTAL INSURANCE COMPANY LTD
HAVING ITS REGIONAL OFFICE AT GUWAHATI , GS ROAD, ULUBARI, GUWAHATI,, 781007 REPRESENTED BY THE DEPUTY MANAGER, GAUHATI REGIONAL OFFICE, ULUBARI, GUWAHATI 781007

VERSUS

JAAN ALI AND ANR.
S/O JAHUR ALI,
RESIDENT OF BHAKUATEPA, PO RAOLI, PS SARTHEBARI, DIST BARPETA, ASSAM 781311

2:SRI ABUL ALI
S/O AMESH ALI

RESIDENT OF VILLAGE AMRATTARY

PO ANANDABAZAR
PS MUKALMUA
DIST NALBARI
ASSAM 78131

Advocate for the Petitioner : MS. R D MOZUMDAR, MS. C MOZUMDAR,MR. S P SHARMA

Advocate for the Respondent : MS. S D SAIKIA (R-1), MR. A GOSWAM (R-2),MR. A BISWAS,MR R KALITA(R-1),MR P K BASU (R-1)

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 02-11-2026

Heard learned counsel Mr. R.D. Mozumdar for the Insurance Company and learned counsel Mr. A. Biswas for the respondent No. 1.

2. This application is filed by the Insurance Company under Section 5 of the Indian Limitation Act, 1963, with prayer for condonation of delay of 328 (Three Hundred and Twenty Eight) days delay in filing the appeal against the Judgment and Order dated 07.11.2022 passed by the learned Commissioner, Employee's Compensation, Barepta in E.C. Case No. 143/2022.

3. It is submitted that the delay has been duly explained through the application. The judgment was passed on 07.11.2022 and the dealing counsel provided his legal opinion on 18.01.2023, after 61 (Sixty One) days of passing of the judgment. It is further contended that on receipt of the judgment, something odd was discovered by the officials of the Applicant Company. Though many cases were filed due to the accident, causing injury, no FIR was registered in all the cases. In all the cases only G.D. Entry was made. No own damage claim was filed against damage to the vehicle. Thus, some research was conducted to delve deeper into the matter.

4. It is further averred that the instant case was part of a pattern for filing cases under the E.C. Act, 1923. In many cases the owner was same, vehicles were different, whereas in many other cases the driver was same and the vehicles were different. The time taken on the research led to the delay in filing

the connected appeal against the Judgment and Order dated 07.11.2022 passed in E.C. Case No. 143/2022. The time taken on the research caused the delay, but it was not intentional, as the Applicant Company had to get to the root of the matter. Vide email dated 30.08.2023, the details of findings were sent to the Legal Hub of the Regional Office for information. Recommendation was made to file appeal. The Regional Office also took some time to go through the claim petitions and documents. The copy of the email dated 30.08.2023 is marked as Annexure-2.

5. It is further contended that the Regional Office thought it prudent to take legal opinion of the Advocate of the High Court, who provided the opinion on 03.10.2023 for filing the appeal. Meanwhile, the Office at Barpeta was asked to provide if in any other cases, judgments were passed where such irregularities had surfaced. The file was put up before the competent authority on 08.11.2023 for approval for filing the appeal and the approval was given on the same day. Thereafter, the file was prepared and handed over to the learned counsel on 16.11.2023 for preferring the appeal. The counsel took a few days to prepare the appeal and the appeal was finally filed on 01.12.2023.

6. *Per contra*, learned counsel for the respondent No. 1 laid stress in his argument that the delay has not been sufficiently explained. There was an inexplicable delay in filing the appeal. Under Section 30 (2) of the E.C Act, 1923, the period within which an appeal has to be filed is 60 (Sixty) days, whereas in the instant case, the legal opinion was provided after 61 (Sixty One) days. It is submitted that no letter has been filed to substantiate that the letter dated 18.01.2023 expressing the legal opinion was submitted by the applicant.

7. It is also contended that the name of the learned counsel was also not

provided by the applicant. On mere statements, and without any substantiating documents, it cannot be presumed that substantial grounds have been shown to explain and justify the delay of 328 (Three Hundred and Twenty Eight) days. It is also contended that the applicant is a company and there would be forwarding letters as well as documents relating to the steps taken by the Office while investigating into any fraudulent activities on the part of the respondent No. 1. No documents have been produced nor any FIR has been registered against any fraud allegedly committed by the respondents. Moreover, the merit of the case relating to any fraudulent activities on the part of the respondent No. 1 cannot be taken into consideration at this stage. This Court has to deal only with the reasons of delay and this has not been properly explained by the applicant with substantiating documents. This petition is liable to be dismissed on the ground of inertia and laxity of the applicant. Merely on the statements of the applicant, the applicant cannot claim that delay has been properly explained and that there has been no *malafide* on their part.

8. Further the learned counsel for the respondent No. 1 has submitted that the submissions of the learned counsel for the applicant that such cases have to be referred for an SIT, holds no water, as the applicant had not affirmed that they have filed any FIR against the respondent.

9. It is further contended by the learned counsel for the respondent No. 1 that the applicant has stated that the opinion of two advocates has been taken, but not once the names of the advocates have been disclosed by the applicant, nor any documents to substantiate mere statements by the applicant have been submitted.

10. I have considered the submissions at the bar with circumspection.

11. Learned counsel for the applicant has relied on the decision of the Hon'ble Supreme Court in *State of Nagaland Versus Lipokao and Others* reported in *20(2005) 3 SCC 752* wherein it has been held that :-

> "*14. In G. Ramegowda, Major v. Spl. Land Acquisition Officer it was held that no general principle saving the party from all mistakes of its counsel could be laid. The expression "sufficient cause" must receive a liberal construction so as to advance substantial justice and generally delays in preferring the appeals are required to be condoned in the interest of justice where no gross negligence or deliberate inaction or lack of bona fides is imputable to the party seeking condonation of delay. In litigations to which Government is a party, there is yet another aspect which, perhaps, cannot be ignored. If appeals brought by Government are lost for such defaults, no person is individually affected, but what, in the ultimate analysis, suffers is public interest. The decisions of Government are collective and institutional decisions and do not share the characteristics of decisions of private individuals. The law of limitation is, no doubt, the same for a private citizen as for governmental authorities. Government, like any other litigant must take responsibility for the acts, omissions of its officers. But a somewhat different complexion is imparted to the matter where Government makes out a case where public interest was shown to have suffered owing to acts of fraud or bad faith on the part of its officers or agents and where the officers were clearly at cross-purposes with it. It was, therefore, held that in assessing what constitutes sufficient cause for purposes of Section 5, it might, perhaps, be somewhat unrealistic to exclude from the consideration that go into the judicial verdict, these factors which are peculiar to and characteristic of the functioning of the Government. Government decisions are proverbially slow encumbered, as they are, by a considerable degree of procedural red-tape in the process of their making. A certain amount of latitude is, therefore, not impermissible. It is rightly said that those who bear responsibility of Government must have "a little play at the joints". Due recognition of these limitations on governmental functioning - of course, within reasonable limits - is necessary if the judicial approach is not to be rendered unrealistic. It would, perhaps, be unfair and unrealistic to put Government and private parties on the same footing in all respects in such matters. Implicit in*

the very nature of Governmental functioning is procedural delay incidental to the decision-making process. The delay of over one year was accordingly condoned.

15. It is axiomatic that decisions are taken by officers/agencies proverbially at slow pace and encumbered process of pushing the files from table to table and keeping it on table for considerable time causing delay - intentional or otherwise - is a routine. Considerable delay of procedural red tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression "sufficient cause" should, therefore, be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay. The factors which are peculiar to and characteristic of the functioning of the governmental conditions would be cognizant to and requires adoption of pragmatic approach in justice-oriented process. The court should decide the matters on merits unless the case is hopelessly without merit. No separate standards to determine the cause laid by the State vis-a-vis private litigant could be laid to prove strict standards of sufficient cause. The Government at appropriate level should constitute legal cells to examine the cases whether any legal principles are involved for decision by the courts or whether cases require adjustment and should authorise the officers to take a decision or give appropriate permission for settlement. In the event of decision to file appeal, needed prompt action should be pursued by the officer responsible to file the appeal and he should be made personally responsible for lapses, if any. Equally, the State cannot be put on the same footing as an individual. The individual would always be quick in taking the decision whether he would pursue the remedy by way of an appeal or application since he is a person legally injured while State is an impersonal machinery working through its officers or servants.

16. The above position was highlighted in State of Haryana v. Chandra Mani and Special Tehsildar, Land Acquisition v. K.V. Ayisumma. It was noted that adoption of strict standard of proof sometimes fail to protract (sic) public justice, and it would result in public mischief by skilful management of delay in

the process of filing an appeal. "

12. In this case, learned counsel for the respondent No. 1 has drawn the attention of this Court to an admitted and well known fact that Insurance Companies, in a routine manner, file petitions with prayer for condonation of delay and these petitions have to be diligently scrutinized.

13. Learned counsel for the respondent No. 1 has relied on the decision of this Court in *The ICICI Lombard General Insurance Co. Ltd. Vs Shri Rup Nath Brahma Choudhury & another* reported in *2017 (2) GLT 487* wherein it has been held that :-

"*5. Although the vague date of receipt of files by Regional Office and Head Office is ignored, but as per the averments, once again the Head Officials deliberated among themselves and took yet another advice from another advocate. If that be so, it is apparent that the Head Office was taking an independent decision in the matter of filing of the appeal, for which the entire process of moving the file from table to table in Branch Office and Regional Office of the applicant and of availing opinion from conducting advocate as well as learned advocate practicing in the High Court, as portrayed by the applicant was a totally wasteful exercise, which should not have been done in the first place. If the Head Office of the Applicant has no trust on the officials at Branch level and Regional Office level as well as upon the advice given by conducting Advocate and Advocate having High Court practice ought not to have been allowed to spend even one moment over the file after judgment and award has been passed by the learned tribunal. The explanation is so vague that not even one person or authority is identified who was instrumental in causing even a day's the delay. Under the circumstances, if the applicant allows the file to be moved from table to table of officials who have no decision making authority to file an appeal and assuming the said officials had any decision making authority, their decision in the matter was of no consequence, then the applicants are doing so at their own risk.*

6. The explanations as given in the herein before quoted paragraphs 4, 5 and 6 of the instant application are not at all found to be satisfactory from a in surer like the appellant, who are in a business of insuring citizens and goods in the Country, have a social responsibility to see that at least they do not become a source of prolongation of a litigation under the social and beneficial legislation. Accordingly, this court is of the opinion that the reasons assigned as the cause of delay establishes that the delay of 99 days has not been properly or satisfactorily explained. The said causes are held not to constitute just, or proper, or good, or sufficient cause for which the connected appeal could not be filed on time, rather the said statements reflects that the applicant was casual in all stages of decision making process in the Branch level, Regional Office level and in the Head Office level. The present application is a stereotype application, which gives an impression that the applicant had no intention to display any sense of promptitude even where it affects its own interest or that the applicant has taken for granted that delay would always be condoned even if applications are prepared and filed in a casual and routine manner without satisfactorily explaining the delay. Accordingly, the prayer for condonation of 99 days in presenting the connected appeal is rejected.

7. Before parting with the records, this court is of the view that save and except a few cases, a majority of the insurance claims are generally on a pre-set pattern and the appellant, who are in the business of insuring risk is supposed to be equipped with some sort of mechanism to calculate the estimated award expected in a case and, as such, it is for the applicant to devise a way and mean s to expeditiously challenge those awards, to which they do not agree to. However, this is only a passing remark, and the applicant is left to decide its own course while taking steps in courts."

14. Relying on the judgment, it is submitted that in this case a delay of 99 (Ninety Nine) days was not condoned by this Court.

15. Further the case referred to by the learned counsel for the respondent No. 1 is a case private to the respondent, whereas this is a case where involvement

of some drivers and owners in different litigations have been projected. Annexure-2 clearly reveals that 15 (Fifteen) cases have surfaced during an enquiry by the Insurance Company and examples of several cases have been projected where in 4-5 cases, the insured Mamraj Khan is the owner of the vehicles which have met with the accident. In EC Case No. 108/2022, 109/2022, 56/2023 and 57/2023, the insured vehicle bears Registration No. AS 15 C 8902 and the insured is Mamraj Khan. In EC Case No. 122/2022 and 123/2022, the insured vehicle bears Registration No. AS 15 C 7340, but the insured is Mamraj Khan. Both the vehicles of Mamraj Khan met with accident, out of which EC Cases arose and compensation have been withdrawn by the claimants. There are 4-5 odd cases where the insured vehicles were driven by the same driver i.e. Moktar Ali and several claim petitions have been registered.

This reveals the fraudulent practice of the respondents. It is further contended that names of three doctors have surfaced, who issued certificates in the cases mentioned in Annexure-2 and the names of the doctors are as follows :-

1. Dr. Pranab Jyoti Das

2. Dr. Santanu Das

3. Dr. Hasmat Ali

16. After scrutinizing the application, it can be safely held that the reasons of delay have been duly explained. There is no lack of bonafide. It is not true that the statements have not been substantiated by any documents. Annexure-2 is sufficient to substantiate the submissions that a thorough investigation was

taken up, which reveals some fraudulent activities while claiming compensation in the EC Cases mentioned in Annexure-2.

17. A pragmatic view indeed has to be taken. The delay has been explained, but this Court will not resort to technicalities by seeking explanation of delay of each and every day.

18. In the light of the decision of the Supreme Court in the case of State of Nagaland Versus Lipokao and Others (supra), it is held that the delay was the result of the enquiry into the allegedly fraudulent activities and the appeal is required to be heard on merits considering public interest. This Court also cannot be oblivious of the fact that this case relates to enquiry by the Insurance Company in its official capacity and pushing of files and red tapism cannot be ruled out. It is further clarified that this order will not affect the merits of the connected appeal as the allegation of allegedly fraudulent activities has to be dealt with substantiating evidence.

19. In view of the foregoing discussions, the delay of 328 (Three Hundred and Twenty Eight) days is condoned.

20. This Interlocutory Application is allowed.

21. Registry to register the connected appeal.

JUDGE

Comparing Assistant