GAHC030005412025

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

**Case No. : I.A.(Civil)/138/2025**

Hmingthanpuia
S/o T.Dokunga, R/o Hunthar Veng, Aizawl, Presently residing at Republic Veng, Aizawl

VERSUS

Sh Lalpianga and 6 Ors.
F/o Lalchhuansangi (L), R/o Keitum, Serchhip District, Mizoram

**Advocate for the Petitioner** : Mr. C Tlanthianghlima

**Advocate for the Respondent** : Mr. Johny L Tochhawng for R7

**BEFORE**
**HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA**

**ORDER**

**Date :** 17-11-2026

Heard Mr. C. Tlanthianghlima, the learned Legal Aid Counsel appearing for the applicant. Also heard Mr. R. Lalruatfela, learned counsel appearing for opposite party Nos. 1 to 5/claimants as well as Mr. Johny L. Tochhawng, the learned counsel appearing for opposite party No. 7.

2. This Interlocutory Application under Section 5 of the Limitation Act has

been filed by the applicant, Sh. Hmingthanpuia, praying for condoning the delay of 889 days in filing the connected appeal, wherein the Judgment & Award dated 14.12.2022, passed by the Motor Accident Claims Tribunal, Aizawl, Mizoram in MAC Case No. 42/2019 has been impunged. In the judgment which has been impugned in the connected MAC Appeal, the Motor Accident Claims Tribunal has directed the present opposite party No. 7/Insurance Company to pay the compensation awarded to the claimants i.e., a sum of Rs. 30,57,000/- along with interest @ 7% per annum from the date of filing of the claim petition to the claimants and thereafter, recovered the same from the present applicant. The direction for pay and recovery has been made by the Motor Accident Claims Tribunal because the driver of the offending vehicle was found driving the vehicle on the date of the alleged incident without having a valid driving license and as such, there was a breach of policy condition.

3. The learned counsel for the applicant submits that though the impugned judgment was delivered on 14.12.2022 by the Motor Accident Claims Tribunal, however, the present applicant came to know about the same for the first time only in the second week of May, 2025 when the Order dated 07.05.2025 passed by the Motor Accident Claims Tribunal in the Execution Case No. 13/2023, whereby warrant of arrest issued against the present applicant was communicated to him.

4. The learned counsel for the applicant submits that immediately after coming to know about the Judgment & Award dated 14.12.2022, whereby the Insurance Company was allowed to recover the compensation paid by it to the claimant from the present applicant, the applicant took steps for preferring an appeal. He further submits that however, the applicant being an unemployed

person and without having any regular source of income, could not engage a lawyer on his own and, as such, he approached the High Court Legal Services Committee for appointment of a Legal Aid Counsel. He submits that accordingly, Legal Aid Counsel was appointed on 22.05.2025. However, by then, already sufficient delay was caused. He submits that after appointment of Legal Aid Counsel by the High Court Legal Services Committee, some time was consumed in preparing the memo of appeal and civil matters and ultimately the appeal was filed after a delay of 889 days.

5. The learned counsel for the applicant submits that the judgment which has been impugned in the connected appeal has been passed by the Tribunal ex-parte against the present applicant. He submits that he never received the summons from Motor Accident Claims Tribunal during the pendency of the inquiry. Though summons were delivered at his Aizawl residence, he submits that as during that period of time he was residing at Siaha, he was unaware about the pendency of the claims case against him. He further submits that the delay has been caused without there being any mala fide intention on the part of present applicant, as he could not have gained in any manner in causing the delay in filing of the appeal. He further submits that since the vehicle which was involved in the accident was duly insured, and on the date of fateful accident, the vehicle was driven by the driver without the knowledge of the present applicant as he had left the vehicle in the custody of his mother-in-law. He submits that ends of justice would be served if the connected appeal is decided on merit instead of thwarting the entire matter at the threshold. He submits that the delay caused in preferring the connected appeal beyond the period of limitation was not caused due to any negligence and the same has been caused due to reasons which were beyond the control of the present applicant and

therefore, he submits that the delay of 889 days in preferring the connected appeal may be condoned and the applicant may be given chance to pursue the appeal so that the matter may be decided on merits. In support of his submission, the learned counsel for the applicant has cited the ruling of the Apex Court in the case of ***N. Balakrishnan Vs. M. Krishnamurthy***, reported in ***(1998) 7 SCC 123***.

6. On the other hand, Mr. R. Lalruatfela, the learned counsel for the opposite party Nos. 1 to 5 has submitted that though the opposite party Nos. 1 to 5/claimants have already received the compensation amount from the Insurance Company. However, he is opposing the prayer for condonation of delay made by the present applicant on the ground that the applicant has been negligent in pursuing the remedy in proper way as the summons of the MAC Case No. 42/2019 were served on him during the pendency of the inquiry for nine times and the same has been acknowledged by the Motor Accident Claims Tribunal in paragraph No. 4 of the impugned judgment. He submits that in spite of due service of summons on the applicant for nine times, the applicant failed to contest the claim case while filing written statement. As such, he submits that no indulgence should be granted to the applicant by condoning a huge delay of 889 days in preferring the connected appeal. He submits that the bare fact that the summons were duly served on the applicant for nine times, itself is indicative of the fact that he was fully aware about the pending claim case, and he himself chose not to contest the claim case by filing written statement. He submits that the applicant has failed to justify that he was prevented by sufficient cause in preferring the connected appeal within the prescribed period of limitation. As such, he prays for dismissing the instant Interlocutory Application filed by the applicant.

7. On the other hand, Mr. Johnny L. Tochhawng, the learned counsel appearing for the opposite party No. 7/ Insurance Company has also made submission similar to the submissions of the learned counsel for the claimants/opposite party Nos. 1 to 5. He also submits that the applicant has failed to show anything to suggest that he was prevented by sufficient cause in preferring the connected MAC Appeal within the prescribed period of limitation. He further submits that the applicant also does not have much merit even if this condonation application is allowed, as the direction for pay and recovery made by the Tribunal was for the reason that the driver of the offending vehicle was found driving the vehicle on the fateful day of accident without having valid driving license. He submits that there are catena of judgment of the Apex Court where the legal proposition has been settled that the delay should not be condoned mechanically and unless reasonable and sufficient causes for the delay is shown by the applicant, no indulgence should be granted in such cases by condoning the delay. He further submits that in the instant case, the delay involved is a huge delay of 889 days and the opposite party No. 7/Insurance Company has already paid the compensation amount to the claimant and as per the direction of the Tribunal has instituted an execution proceeding or to recover the said amount from the owner of the offending vehicle.

8. The learned counsel for the opposite party No. 7 further submits that the applicant has nowhere pleaded that the notices issued by the Motor Accident Claims Tribunal during the pendency of the inquiry in MAC Case No. 42/2019 were delivered at his Aizawl residence and that he was not residing at that place at that point of time. He therefore, submits that such oral submissions of the learned counsel for the applicant which are beyond the pleadings should not be taken into consideration. He submits that there is an apparent lack of due

diligence on the part of the applicant in filing the connected appeal and as such, he is not entitled to have his delay condonation of petition considered leniently. In support of his submission, the learned counsel for the opposite party No. 7 has cited the following rulings:-

*(i) Popat Bahiru Govardhane and others Vs. Special Land Acquisition Officer & Anr., reported in (2013) 10 SCC 765.*

*(ii) State of Mizoram & 3 Ors. Vs. Sh. Jerry Zothankima & 2 Ors., (Order dated 22.02.2025 passed in I.A. (Civil) No. 134/2024.*

*(iii) Order dated 10.05.2018 passed in I.A. (Civil) No. 133/2017 and I.A. (Civil) No. 134/2017 in connection with MAC App. No. 40/2017.*

9. I have considered the submissions made by the learned counsels for the parties and have gone through the materials available on record.

10. In the instant case, the delay involved is a huge delay of 889 days. However, the plea of the applicant for seeking condonation of such delay is mainly that he was not aware about the existence of impugned judgment, wherein a direction has been made to recover the awarded compensation from him by the Insurance Company.

11. It is a settled proposition of law that while dealing with application for condonation of delay, the courts should normally take a liberal view of the matter, and instead of scuttling the entire case of the applicant at the initial stage, an effort may be made to decide the issue on merit. However, for that, the applicant has to show that he was prevented by sufficient cause in

preferring the connected appeal within the prescribed period of limitation.

12. In the instant case, if we go through the observations made by the Motor Accident Claims Tribunal in paragraph No. 4 of the impugned judgment, justifying the reasons for proceeding with the inquiry in MAC Case No. 42/2019 ex-parte against the present applicant, it appears that it has been observed therein that the opposite party No. 1 therein, (i.e. the present applicant) did not contest the case in spite of summons duly served to him nine times and receipt of such summons. Though in the instant Interlocutory Application, there is no such pleading regarding non-receipt of the summons by the applicant as he was not staying at the given address at the relevant point of time. However, in another Interlocutory Application filed by the present applicant in connection with the connected MAC appeal No. 15/2023, namely, I.A.(Civil) No. 139/2025 he has pleaded that the applicant and his wife had relocated to different places like Mamit, Siaha and Aizawl since the year 2019. He has also pleaded that the offending vehicle in question i.e., his Scooty was left by him with his mother-in-law at her resident at Hunthar Veng, Aizawl and he had no knowledge that the vehicle was taken out by the respondent No. 6 (driver) and the deceased on the fateful day. Though the applicant has failed to plead in the instant Interlocutory Application the same facts which he had pleaded in paragraph No. 3 of the I.A. (Civil) No. 139/2025, however, since the said pleading is supported by an affidavit, this court, for the ends of justice is taking into consideration, the pleadings averred in the connected Interlocutory Application. It appears that the claimants herein i.e., opposite party No. 1 to 5 would not suffer any loss or would not be affected in any manner, even if the delay is condoned in this case, as they have already received the compensation awarded to them.

13. This Court is of the considered opinion that considering the plea taken by the applicant in this Interlocutory Application as well as the connected Interlocutory Application and in the connected MAC appeal, whereby he has impugned the observation of the Motor Accident Claims Tribunal regarding recovery of the compensation from him by the Insurance Company, same is requires to be considered on merit rather than closing the door for him at this stage. It also appears that the applicant could not have gain anything by adopting any dilatory tactics intentionally by delayed filing of the appeal against the impugned judgment, as apparently the direction therein is against the present applicant and it is he who would have suffered loss if no appeal is filed against the impugned judgment.

14. Under the aforesaid circumstances, this Court is taking a liberal view of the matter and accordingly, condones a delay of 889 days in preferring the connected appeal by the present applicant.

15. This Interlocutory Application is accordingly allowed.

16. The Registry shall list the connected MAC Appeal for admission **after a week** on a date to be fixed by the Registry.

**JUDGE**

**Comparing Assistant**