IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.685 of 2009
CNR No. ODHC010370282009

(In the matter of application under Section 173(1) of the Motor Vehicles Act, 1988).

Goru @ Gour Munda … ***Appellant***

-versus-

Bajaranglal Upadhya and another … ***Respondents***

For Appellant : ***Mr. U.C. Behura, Advocate***

For Respondents : ***Mr. P.K. Mahali, Advocate (for R-2), None for R-1***

CORAM: JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT:05.11.2026 (ORAL)

G. Satapathy, J.

MACA No.685 of 2009 & Misc. Case No.1179 of 2009

1. This judgment shall not only dispose of the Appeal on merit, but also the Misc. Case No.1179 of 2009 filed U/S.5 of the Limitation Act,1963 for condonation of delay of 119 days in preferring the Appeal to challenge the impugned judgment dated 11.12.2008 passed by the learned 3rd Motor Accident Claims Tribunal, Rourkela (in short, the "Tribunal") in MAC Case No.324 of 2003 directing the United India

Insurance Co. Ltd.-cum-R2 herein (In short, "the insurer") to pay a sum of Rs.1,88,266/- as compensation to the claimant-appellant within two months thence, failing which to pay default simple interest @ 7% per annum w.e.f. the date of judgment till payment is made with further right to recover the compensation from the owner of the vehicle-cum-R1.

2. The facts in this case, being largely undisputed are not reiterated to avoid prolixity; but it is, however, made clear by the learned counsel for the claimant-appellant that the claimant challenges the impugned judgment for non-award of interest w.e.f. from the date of filing of the claim.

3. Heard, Mr. Umesh Chandra Behura, learned counsel for the appellant-claimant and Mr. P.K. Mahali, learned counsel for R2 in the matter and perused the record. None appears for R1-cum-owner, but no notice has been served on him despite issuance of notice against him, however, the re-issuance of notice against R1 stands dispensed with in view of the provision under

Order XLI Rule 14(4) of the CPC, since R1 was set *ex-parte* on 17.10.2006 in the proceeding before the learned Tribunal as he did not appear in the claim.

4. Admittedly, there is a delay of 119 days, but the appellant is the claimant and the delay in preferring the Appeal has not been challenged by the insurer by filing any written objection and the insurer only challenges such delay by advancing oral objection. Delay of long duration can be taken into account for passing any adverse order in not condoning the delay, but delay of such shorter duration should always be considered liberally. It is also no longer *res integra* that when substantial justice and technical consideration are pitted against each other, the cause of substantial justice deserves to be accepted and the appellant herein being the claimant should not be prevented from agitating his grievance due to delay in filing the Appeal. This Court, accordingly, considers that the delay of 119 days having justifiably explained by the appellant, the same needs to be condoned. Accordingly, the delay of 119 days in preferring the Appeal stands condoned.

Hence, the **Misc. Case No.1179 of 2009** stands disposed of.

5. Turning to the challenge of the appellant which is only with regard to imposition of interest from the date of judgment, it appears that the learned Tribunal has not granted any interest on the award, rather it has granted a default interest by putting a clause that if the award is not paid within two months thence, the award will carry 7% interest w.e.f. the date of judgment, which appears to be a clear violation of Section 171 of the Act. When the claimant has filed an application for compensation, the interest should be awarded from the date of application, but herein in this case, the default interest has been made payable w.e.f. the date of judgment, which is erroneous and liable to be modified. It is also not in dispute that the Claim Appeal is pending since 2009, and although the award has already been satisfied, but the same is without any interest, however, the claimant is entitled to interest. In the aforesaid facts and situation and on

consideration of the materials placed on record, this Court considers that the impugned judgment is liable to be modified with imposition of simple interest @ 6% per annum w.e.f. the date of filing of the claim till actual realization.

6. In the result, the Appeal stands allowed to the extent indicated above, but there is no order as to costs. Consequently, the impugned judgment of the learned Tribunal stands confirmed with modification of interest and the insurer is, hereby, directed to pay the modified compensation together with the interest w.e.f. the date of filing of claim application till actual realization to the claimant within eight weeks hence by paying the differential amount, if the claimant has already received the award earlier.

(G. Satapathy)
Judge

Orissa High Court, Cuttack,
Dated the 5th day of November, 2026/Subhasmita

Signature Not Verified
Digitally Signed
Signed by: SUBHASMITA DAS
Designation: Sr. Stenographer
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 06-Nov-2026 14:20:02