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Received on	19/02/2021
Registered on	19/02/2021
Decided on	22/06/2022
Duration	Y. M. D.
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IN THE COURT OF PRINCIPAL DISTRICT JUDGE, JUNAGADH**M.A.C.M.A. No.43/2021****APPLICANTS:**

1. Dilavar Babubhai Dhandhukiya,
Aged about: 35 years,
Occupation: Farming,
2. Babubhai Nagbhai Dhandhukiya,
Aged about: 55 years,
Occupation: Farming,

Both R/o.Patapur, Tal.Junagadh.

VERSUS**OPPONENTS:****PARTIES OF MOTORCYCLE NO.GJ-11-CC-6873:**

1. The New India Assurance Co. Ltd.,
Through: The Divisional Manager,
Gokul Chambers, Kalva Chowk,
Junagadh.
2. Harsukhbhai Prabhudas Chavda,
Aged about: 35 years,
Occupation: Labour,
R/o.Khadiya, Hanumanpara,
Tal.Junagadh.

APPEARANCE:

Mr.D.N.Mulchandani	Ld.Advocate for the applicants
Mr.V.H.Kanjaria	Ld.Advocate for the opponent No.1
None on behalf of the opponent No.2	

Subject:	Application for condonation of delay under Section-5 of Limitation Act, 1963
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-: J U D G M E N T :-

1. Being aggrieved and dissatisfied with the impugned Judgment and Award passed by the then Tribunal in M.A.C.P. No.187/2007 dated 01/10/2018, the applicants have tried to prefer the review application by way of this delay condone application. According to the applicants, there is delay of 2 years, 3 months and 17 days in preferring the review application.
2. Heard Ld.Advocate Shri D.N.Mulchanani for the applicants and Ld.Advocate Shri V.H.Kanjaria for the opponent No.1-insurance Company. Despite of the service of notice of this application, none has remained present on behalf of the opponent No.2.
3. Ld.Advocate Shri D.N.Mulchandani, for the applicants, has argued that in this case, M.A.C.P. No.187/2007 came to be disposed by the then Tribunal by way of its Judgment and Award dated 01/10/2018 where in paragraph 14 of the said Judgment, the then Tribunal had observed that the opponent No.2, who is the applicant No.1 herein, had not produced the driving license and had therefore, passed an order of pay and recovery. According to him, on the date of accident on 08/08/2006, the learning license of the present applicant No.1 was in force and therefore, there is a bonafide error on the part of the then Tribunal

because of which, the then Tribunal had passed an order of pay and recovery.

3.1 Ld.Advocate Mr.D.N.Mulchandani, has thereafter submitted that the applicants came to know about the impugned Judgment and Award when they received notice on 03/02/2020 issued in M.A.C. Execution Petition No.3/2020 and thereafter, according to him, the applicants had immediately moved an application for obtaining the certified copies on 12/02/2020 which were received by them on 14/02/2020 and thereafter, they had applied before the R.T.O., Junagadh and had received the same. Thus, according to Ld.Advocate Shri D.N.Mulchandani, delay of 2 years, 3 months and 17 days is required to be condoned.

3.2 *Per contra*, Ld.Advocate Shri V.H. Kanjaria, for the opponent No.1-insurance company, has vehemently opposed this application and has submitted that apart from the reasons for review application, no sufficient cause have been assigned for the cause of delay and thus, the present application deserves to be rejected.

4. It transpires from the record of this case that earlier, M.A.C.P. No.187/2007 came to be disposed of upon merits by the impugned Judgment and Award dated 01/10/2018. The applicants, in this application, have more or less, emphasized on the grounds of review petition. It is pertinent to note that the impugned

Judgment and Award came to be passed on 01/10/2018. On that day, there was no Covid-19 prevalent in the entire world. The nationwide lock-down started from the end of March-2020. The applicants, in the entire application, have not mentioned any satisfactory explanation as to what precluded them from preferring the review application from the date of impugned Judgment and Award upto 03/02/2020 when they received the notices in M.A.C. Execution Petition No.3/2020. Not a single word has been mentioned regarding the same. Moreover, it transpires that the applicants were not aware of the impugned Judgment and Award passed on 01/10/2018. They have never tried to inquire from the Tribunal or from their Id.Advocate regarding the stage of the proceedings i.e. M.A.C.P. No.187/2007. In this case, the entire delay condone application of the applicants do not disclose a satisfactory explanation as to why the review application could not be preferred within 30 days of the passing of the impugned Judgment and Award. It is true that Motor Vehicles Act is a benevolent Act but under the guise of benevolent nature of the Motor Vehicles Act, parties cannot be permitted to take the Tribunals for granted. In cases where the parties come before the Tribunal or the Court for condonation of delay then they have to satisfactorily explain the cause for such delay. In this case, the delay of 2 years, 4 months and 17 days have not been satisfactorily explained by the applicants. In the absence of such satisfactory

explanation, this Tribunal is constrained to pass the following final order:

-:: O R D E R ::-

This application is hereby **REJECTED** with no order as to costs.

Signed and pronounced in the open Tribunal, today, on this **22nd day of June, 2022.**

Date:22/06/2022
Junagadh.

(ROHEN K. CHUDAWALA)
M.A.C.T.(Main)
Junagadh
Code No.GJ01317