



2026:CGHC:20634
NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 684 of 2024

Surendra Mahananda S/o Gum Mahananda Aged About 26 Years R/o Balitikra,
P.O. Satlama Barpali, Dist. Bargarh (Orissa)

... Appellant

versus

1 - Purshottam Bhite S/o Manohar Shite Through Neha Transport Company
Shop No. 8-A, Ring Road No. 2, Commercial Complex Kabirnagar, Raipur,
Tahsil And Dist. Raipur, C.G.

2 - The New India Insurance Co. Ltd. Through- Divisional Office, Mobin
Mahal Jail Road Kachheri Chowk Raipur, Tahsil And District Raipur, C.G.

.... Respondent(s)

(Cause title is taken from CIS)

For Appellant(s)	: Mr. Arjun Lal Singroul, Advocate
For Respondent No.1	: None, though served.
For Respondent No.2	: Mr. Azad Siddique, Advocate

Hon'ble Shri Justice Bibhu Datta Guru

Judgment on Board

04/05/2026

1. The present Misc. Appeal has been filed by the appellant/claimant under
Section 30 of the Employee's Compensation Act, 1923 (hereinafter
referred to as "the Act, 1923") against the order/award dated 25.01.2024

passed by the Commissioner, Employees' Compensation Act, Labour Court No.1, Raipur in Case No. 39/E.C. Act/2017/Non-Fatal, whereby the claim petition filed by the appellant under Section 22 of the Act, 1923 has been dismissed, *inter alia*, on the ground of limitation as well as on merits.

2. The appellant filed the claim petition pleading *inter alia* that he was working as a driver on truck bearing registration No. CG-04-JC-5589 owned by respondent/ non-applicant No.1. On 11.05.2012, while driving the said vehicle from Nayapara Rajim to Hirmi Cement Factory, near village Saragaon Dondakala, an unknown vehicle driven rashly and negligently collided with his truck, as a result of which the vehicle lost control and hit a roadside tree. The appellant sustained grievous injuries, including fractures in his wrist, palm and fingers, and a severe injury to his shoulder, for which he was hospitalized from 11.05.2012 to 14.05.2012 and underwent surgery. It is further stated that the vehicle was duly insured with respondent/ non-applicant No.2, however, no compensation has been paid. Hence, the claim petition has been filed claiming compensation to the tune of Rs.11,33,284/-. Along with the claim petition, an application for condonation of delay has also been filed stating that due to ongoing medical treatment in the State of Odisha, there was delay in filing the claim.
3. Respondent No.1, in his written statement, has admitted that the appellant was working as his employee and has also admitted that the vehicle met with an accident on the date of the incident. However, it is contended that the claim has been exaggerated and, therefore, is liable to

be rejected.

4. Respondent No.2 (Insurance Company), in its written statement, has admitted that the vehicle was insured at the relevant time. However, it has contended that the claim has been filed after a delay of about five years, that no such accident took place with the insured vehicle, and that the appellant has not suffered any loss of earning capacity. It is further pleaded that the claim is highly exaggerated and that there has been violation of policy conditions, and hence, the claim is liable to be dismissed.
5. The Labour Court, on the basis of the pleadings and material available on record, framed as many as 10 issues for adjudication of the claim petition. The parties led evidence in support of their respective cases. Upon appreciation of the evidence on record, the Labour Court dismissed the claim petition, holding that the same was not filed within a period of two years from the date of the alleged accident and that the appellant/claimant had failed to show sufficient cause for condonation of delay. The Labour Court further held, on merits, that the appellant/claimant failed to establish the employer–employee relationship, the occurrence of the accident during the course of employment, and the resultant loss of earning capacity.
6. Learned counsel for the appellant submits that the impugned judgment passed by the learned Commissioner is perverse, illegal and contrary to law, having been passed without proper appreciation of the evidence on record. He submits that the respondent has admitted the employer-

employee relationship and the insurance company has admitted the fact that the vehicle was duly insured with it, yet no evidence was led by them to disprove the claim or establish violation of policy conditions. He further submits that the learned Commissioner has erred in rejecting the claim on the ground of delay alone, ignoring that the loss of earning capacity was duly established and that, in absence of proof of income, minimum wages ought to have been considered. Thus, the rejection of the claim is wholly unjustified and the impugned award is liable to be set aside.

7. Learned counsel for respondent No. 2/Insurance Company opposes the aforesaid submission and submits that the impugned judgment passed by the learned Commissioner is legal and well-founded, calling for no interference. He submits that the claim petition was filed after an inordinate delay of about five years from the date of the alleged accident, for which no sufficient cause has been established. Learned counsel further submits that the appellant has failed to prove loss of earning capacity or income by cogent evidence, and the claim has been grossly exaggerated. He would also contend that there has been violation of policy conditions and the Insurance Company cannot be fastened with liability in absence of strict proof. Hence, the appeal being devoid of merit is liable to be dismissed.
8. I have heard learned counsel for the parties and perused the record with utmost circumspection. The appeal is admitted on the following substantial questions of law:-

“1. Whether the learned Commissioner, Employee’s Compensation Act, was justified in dismissing the claim filed by the appellant herein on the ground of delay in filing the same.

2. Whether the finding of the learned Commissioner, Employee’s Compensation Act, was perverse and contrary to the evidence available on record?”

9. Bare perusal of the record, it is evident that the alleged accident occurred on 11.05.2012 and the claim petition was filed on 06.11.2017, i.e., after a lapse of about five years. The learned Commissioner has rejected the claim on the ground of delay by adopting a rigid and hyper-technical approach, holding that the cause shown by the appellant was not sufficient, without appreciating the surrounding circumstances in proper perspective.
10. For the sake of convenience, Section 10(1) of the Act and its fifth proviso reproduced hereinbelow:-

"10. Notice and claim.-(1) No claim for compensation shall be entertained by a Commissioner unless notice of the accident has been given in the manner hereinafter provided as soon as practicable after the happening thereof and unless the claim is preferred before him within two years of the occurrence of the accident or in case of death within two years from the date of death:

XXX XXX XXX

XXX XXX XXX

XXX XXX XXX

Provided further that the Commissioner may entertain and decide any claim to compensation in any case notwithstanding that the notice has not been given, or the claim has not been preferred, in due time as provided in this sub-section, if he is satisfied that the failure so to give the notice or prefer the claim, as the case may be, was due to sufficient cause."

11. A plain reading of the above provision shows that filing of an application under Section 5 of the Limitation Act is not the *sine qua non* for condonation of delay in preferring the claim beyond the period of two years as prescribed under Section 10(1) of the Act. If the Commissioner is satisfied that the failure to give the notice or to prefer the claim was due to sufficient cause, he has jurisdiction to condone the delay.
12. The Apex Court in the matter of ***M.S. Grewal v. Deep Chand Sood AIR 2001 SC 3660: (2001) 8 SCC 151*** has held as under:

"Law Courts will lose their efficacy if they cannot possibly respond to the need of the society-technicalities there might be many but the justice oriented approach ought not to be thwarted on the basis of such technicality since the technicality cannot and ought not to outweigh the course of justice."
13. Further in the ***Jagannath Gupta vs. Awadh Ram and Ors MANU/CG/0128/2009***, this Court has observed about condonation of delay as under:

"It must be remembered that in every case of delay, there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy, the Court must show utmost consideration to the suitor. The Act is a public welfare legislation and the application by the victim of an accident should not be thrown aside by the legal authority prescribed under the Act merely on technical grounds which included ground of limitation."

14. It is well settled that the provisions relating to limitation are not intended to defeat substantive rights, particularly in beneficial legislations such as the Employees' Compensation Act, 1923, which is a welfare legislation enacted to provide compensation to a workman who suffers injury during the course of employment. The rules of limitation are meant to ensure diligence in pursuing remedies and not to destroy substantive rights by adopting a hyper-technical approach. In the present case, the learned Commissioner has failed to adopt a liberal and justice-oriented approach while considering the delay and has rejected the claim on purely technical grounds, without appreciating the object and spirit of the Act. The appellant/claimant has, therefore, shown sufficient cause for the delay in filing the application under Section 22 of the Act, and the delay deserves to be condoned in the interest of justice.
15. Having answered the substantial questions of law in favour of the appellant and having held that the delay in filing the claim petition

deserves to be condoned, this Court now proceeds to examine the case on merits.

16. From the record, it is evident that respondent No.1/owner of the vehicle, in his affidavit has categorically admitted the employer employee relationship as well as the fact that the vehicle met with an accident on the date of the incident. Similarly, respondent No.2/Insurance Company has admitted that the offending vehicle was duly insured at the relevant point of time. In view of such clear admissions, the foundational facts stand proved, and the contrary findings recorded by the learned Commissioner are perverse and unsustainable.
17. The appellant has placed on record the Disability Certificate (Ex.P/10) dated 30.5.2022 issued by the Medical Authority, Raipur, Chhattisgarh (Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment, Government of India) which certifies that he has suffered 74% permanent locomotor disability in relation to his right arm on account of fracture of radius and ulna with residual deformity. Since the said certificate, having been issued by a duly constituted Medical Board under the provisions of the RPwD Act, 2016, it carries a presumption of correctness, and there is no cogent evidence on record to disbelieve or discard the same.
18. Considering that the appellant was working as a driver, the functional disability, so far as earning capacity is concerned, would be substantially higher, as effective use of both upper limbs is essential for driving. Therefore, the loss of earning capacity is reasonably assessed at 100%.

19. So far as the age of the appellant is concerned, the Aadhaar Card as also the driving licence placed on record reflects his date of birth as 28.12.1990, and accordingly, on the date of accident i.e. 11.05.2012, he was about 22 years of age, which stands duly proved. Although no documentary evidence of income has been filed, considering the nature of employment of the appellant as a driver and the prevailing wages at the relevant time, the monthly income of ₹8,000/- as pleaded appears to be just and reasonable and is therefore accepted.
20. In terms of Section 4 of the Employees' Compensation Act, 1923, 60% of the monthly wages comes to ₹4,800/-, and applying the relevant factor of 221.37 for the age of 22 years, the compensation works out to ₹10,62,576/-. In view of the finding that the loss of earning capacity is 100%, the appellant would be entitled to the full amount so computed. Further, the appellant has incurred medical expenses to the tune of ₹64,000/-, which also deserves to be taken into account. However, considering the totality of the facts and circumstances of the case, this Court deems it appropriate to award a consolidated compensation of ₹11,26,576/- in the interest of justice.
21. The second substantial question of law is answered accordingly. In view of the clear admissions made by respondent No.1 regarding the employer-employee relationship and the occurrence of the accident, coupled with the medical evidence on record including the Disability Certificate (Ex.P/10), the findings recorded by the learned Commissioner rejecting the claim on merits are found to be perverse and contrary to the evidence available on record. The learned Commissioner

has failed to properly appreciate the material evidence and has adopted an erroneous approach in discarding the same, thereby rendering the impugned findings unsustainable in law.

22. In view of the foregoing discussion, this Court is of the considered opinion that the impugned order dated 25.01.2024 passed by the Commissioner, Employees' Compensation Act, Labour Court No.1, Raipur is not sustainable in law and deserves to be set aside.
23. Accordingly, the appeal is **allowed**. The impugned order/award dated 25.01.2024 passed by the Commissioner, Employees' Compensation Act, Labour Court No.1, Raipur in Case No. 39/E.C. Act/2017/Non-Fatal is hereby set aside. The appellant/claimant is held entitled to compensation of **₹11,26,576/- (Rupees Eleven Lakh Twenty-Six Thousand Five Hundred Seventy-Six only)**.
24. Upon due examination of the facts as also the substantial questions of law, this Court finds that the owner of the vehicle as also the Insurance Company both are jointly liable to compensate the claimant as the employer has accepted that the claimant was under his employment and the Insurance Company has also accepted that the vehicle was duly insured with it. Since, the vehicle in question was duly insured and there is no allegation of breach of policy, Respondent No.2/Insurance Company is directed to pay the aforesaid amount to the appellant/claimant along with interest @ 12% per annum from the date of accident i.e. 11.05.2012 till its actual realization. The entire amount along with accrued interest shall be deposited by respondent No.2 before

the concerned Commissioner within a period of 60 days from the date of receipt of a certified copy of this order.

25. Upon such deposit, the learned Commissioner shall ensure disbursement of the amount to the appellant/claimant, preferably by transferring the same to his bank account. The Commissioner shall also take appropriate steps to ensure that the compensation amount is released in a safe and secure manner, keeping in view the welfare object of the Act. No order as to costs.

Sd/-
(Bibhu Datta Guru)
Judge