



2025:CGHC:39622

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 306 of 2021

1 - Smt. Baniharin Bai Wd/o Late Nohar Singh Sahu Aged About 50 Years (now aged about 58 years)

2 - Manbodh Sahu S/o Late Nohar Singh Sahu Aged About 32 Years (now aged about 40 years)

3 - Kamta Sahu S/o Late Nohar Singh Sahu Aged About 30 Years (now aged about 38 years)

4 - Yogeshwar Sahu S/o Late Nohar Singh Sahu Aged About 28 Years (now aged about 36 years)

All R/o Kochera, Post Dhaneli, Police Station And Tahsil Gurur, District Balod Chhattigarh

... Appellant (s)

versus

1 - Kamlesh Kumar Sahu S/o Nagendra Sahu Aged About 35 Years (Now Aged About 43 years), R/o Village Dhaneli, Police Station And Tahsil Gurur, District Balod Chhattigarh(Driver)

2 - Smt. Harvant Kour Sahni W/o Jagat Singh Sahni Aged About 60 Years R/o Gidam Road, Jagdalpur, District Bastar Chhattigarh (Owner)

3 - National Insurance Company Limited Through Divisional Manager, Akash Ganga Parisar Supela Bhilai Tahsil And District Durg Chhattisgarh(Insurer)

... Respondent(s)

For Appellant (s)	:	Mr. Praveen Dhurandhar, Advocate
For Resp. No. 3	:	Mr. Akash Shrivastava, Advocate on behalf of Mr. R.N. Pusty, Advocate



S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Judgment On Board

07/08/2025

1. Heard on IA No.1 which is an application for condonation of delay of 2328 days in filing the appeal.
2. This appeal under Section 173 of the Motor Vehicles Act, 1988 (for short "*Act of 1988*") is filed by appellants/claimants seeking enhancement of amount of compensation awarded by learned Second Additional Motor Accidents Claims Tribunal, Balod, District- Balod vide award dated 29.07.2013 passed in Claim Case No.25 of 2012.
3. Learned counsel for the appellants/claimant submits that reason for filing of this appeal is only for issuance of a direction to respondent No.3-insurance Company to first pay amount of compensation and thereafter to recover the same from owner of the offending vehicle.
4. In the application for condonation of delay reason assigned for not filing the appeal within time is that impugned award was challenged by owner of the offending vehicle in MAC No.561 of 2014 which was dismissed on 15.03.2019. Order passed in MAC No.561 of 2014 was put to challenge by the claimants in SLP No. 4783 of 2020 which came to be dismissed on 15.06.2020 with an observation that claimants have not preferred appeal against the award before the High Court. It was further observed that the only remedy before the petitioners (claimants) would be to move the High Court by way of an appeal. No other ground or reason assigned for not challenging the award dated 29.07.2013 till 15.03.2019 when the claim appeal filed by owner of offending vehicle



was disposed off/dismissed by High Court.

5. From the pleadings made in claim application and submission of learned counsel for the appellants, this Court does not find that appellants have shown sufficient cause for condoning inordinate delay of 2328 days in filing this appeal.
6. Hon'ble Supreme Court in case of **Maqbul Ahmad and Ors. Vs. Onkar Pratap Narain Singh & Ors.** (AIR 1935 PC 85) has held that *"the Court cannot grant an exemption from limitation on equitable consideration or on the ground of hardship. The Court has time and again repeated that when mandatory provision is not complied with and delay is not properly, satisfactorily and convincingly explained, it ought not to condone the delay on sympathetic grounds alone"*.
7. Hon'ble Supreme Court in case of **Lanka Venkateswarlu (Dead) by LRs. Vs. State of Andhra Pradesh & Ors.** (2011) 4 SCC 363, where the High Court, despite unsatisfactory explanation for the delay of 3703 days had allowed the applications for condonation of delay, held that *"the High Court failed to exercise its discretion in a reasonable and objective manner. High Court should have exercised the discretion in a systematic and an informed manner. The liberal approach in considering sufficiency of cause for delay should not be allowed to override substantial law of limitation. It was observed that the concepts such as 'liberal approach', 'justice-oriented approach' or 'substantial justice' cannot be employed to jettison the substantial law of limitation"*.
8. Hon'ble Supreme Court in case of **H. Guruswamy & Ors. Vs. A. Krishnaiah Since deceased by LRs** (2025 SCC Online SC 54) observed thus:



"16. From the tenor of the approach of the respondents herein, it appears that they want to fix their own period of limitation for the purpose of instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the Court must not start with the merits of the main matter. The Court owes a duty to first ascertain the *bona fides* of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the Court may bring into aid the merits of the matter for purpose of condoning the delay."

9. If the facts of the case is considered keeping in mind that the appeal is filed by claimants, on their application learned Claims Tribunal allowed the claim case in part, awarded compensation of Rs.2,84,000/- and fastened liability upon non-applicant No. 1 & 2 (driver and owner of offending vehicle), said award was challenged by owner of offending vehicle in MAC No.561 of 2014. In appeal (MAC No.561 of 2014), respondents therein including the claimants No. 1 to 4 were noticed. They were represented by an Advocate before High Court and even the counsel representing respondents/claimants appeared when the case was finally heard on 15.03.2019. Claimants have not submitted appeal or cross-appeal after receipt of notice and causing appearance



in claim appeal filed by owner of offending vehicle.

10. From the aforementioned facts, it is appearing that claimants were well aware of remedy to file appeal before High Court but they did not choose to file appeal. Hon'ble Supreme Court in appeal filed by appellants herein challenging the order passed in MAC No.561 of 2014, clearly observed that claimants could have filed appeal before High Court challenging the award passed by the Claims Tribunal. While dismissing SLP, observed that in view of discussion made above only remedy to petitioners (claimants) would be to move High Court by way of an appeal against MACT order but then would have to state as to how delay is to be condoned and that would be an aspect for which the High Court would have to take a call.
11. In the aforementioned facts of case, decisions on the point as referred to above, I am of the view that no sufficient cause has been shown by claimants for condoning the delay of 2328 days in filing of appeal.
12. Accordingly, IA No.1, application for condonation of delay of 2328 days in filing the appeal is rejected.
13. Consequently, appeal is also dismissed being barred by limitation.

Sd/-
(Parth Prateem Sahu)
Judge