

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Reserved on 05.03.2024

Order delivered on 15.03.2024

MAC No. 1976 of 2023

Order on I.A. No. 01/2023

1. Smt Asha Devi S/o Shri Patiram Sao, Aged About 45 Years
R/o 6./675 Nageshwar Nagar Near Kabir Stambh, Birgaon Urla, Tehsil An-
District Raipur Chhattisgarh
2. Shri Patiram Sao S/o Umashankar Sao, Aged About 50 Years
R/o 6/675 Nageshwar Nagar, Near Kabir Stambh, Birgaon Urla, Tehsil And
District Raipur Chhattisgarh. (Driver)

---- Appellant

Versus

1. Mahesh Kumar Dewangan S/o Late Ramhau Dewangan, Aged About 60
Years (Husband Of The Deceased) By Caste Kosta, Occupation Tailor R/o
Village Rivagahan, Post Pendrei Police Station Labag, Tehsil And District
Rajnandgaon Chhattisgarh.
2. Poonam Kumar Dewangan S/o Mahesh Kumar Dewangan, Aged About 42
Years (S/o The Deceased) By Caste Kosta, Occupation Laborer R/o Village
Rivagahan, Post Pendrei Police Station Labag, Tehsil And District Raj-
nandgaon Chhattisgarh.
3. Deepak Kumar Dewangan S/o Mahesh Kumar Dewangan, Aged About 38
Years (S/o The Deceased) By Caste Kosta, Occupation Laborer R/o Village
Rivagahan, Post Pendrei Police Station Labag, Tehsil And District Raj-
nandgaon Chhattisgarh.
4. Mukesh Kumar Dewangan S/o Mahesh Kumar Dewangan, Aged About 34
Years (S/o Deceased) By Caste Kosta, Occupation Laborer R/o Village Ri-
vagahan, Post Pendrei Police Station Labag, Tehsil And District Raj-
nandgaon Chhattisgarh.
5. Smt. Sangeeta Dewangan W/o Radhelal, Aged About 36 Years
By Caste Kosta, Occupation Homemaker R/o Village Markamtola, Post Sin-
garpur, Thana Khairagarh Tehsil And, District : Rajnandgaon, Chhattisgarh
6. National Insurance Company Ltd.Through Baanch Manager Office
Koshabadi, Korba Teh And District Korba Chhattisgarh (Insurer)

---- Respondents

For Appellant	: Mr. Ravikar Patel, Advocate
For Respondents	: None

Hon'ble Shri Arvind Kumar Verma, Judge

C A V Order

1. Heard on I.A. No. 01/2023, application for condonation of 46 month's delay in filing the appeal.
2. This Appeal is directed against the judgment dated 07.12.2019 passed by the learned First Additional Motor Accident Claims Tribunal, Rajnandgaon, District- Rajnandgaon C.G. in claim case No. 156/2018, Appellant has filed this Appeal for enhancement of the compensation amount awarded by the First Additional Motor Accident Claims Tribunal, Rajnandgaon, C.G.
3. Learned counsel for the appellants submits that appellant is a very poor person and after this accident case and offending vehicle seized by police the livelihood and income has been crushed and not in condition to pay compensation and smooth livelihood as well as bear to litigation cost, therefore she has anyhow approached to file this appeal and Covid-19 breakdown the strength of business, therefore 46 month delay has been occurred which is bonafide not intentional. The appellant is a very poor lady the offending vehicle seized by police affected the condition of her family she has no money to bear the litigation cost subsequently, Due to the arrival of Covid 19, the strength of business has breakdown due to which delay has been occurred to file the appeal before the High Court. Lastly it is submitted that she has not intentionally or deliberately caused delay in filing the appeal, hence the delay of 46 months is bona fide for the above reasons and places reliance upon the decision of the High Court of Madhya Pradesh in the matter of **Sudama and Others vs. Lalsingh and others** reported in **2017 ACJ 315**.
4. Heard learned counsel for the appellants and perused the material available on record.
5. Hon'ble the High Court of Madhya Pradesh held in the matter of **Sudama** (Supra) which reads thus:-

.....

“13. True it is that in filing appeal there is a delay of near about four years, but it is a settled proposition of law that in the Indian culture it is not expected from uneducated villagers or agriculturists or labour class that they are acquainted with the legal procedure, specifically the provision of limitation, to file appeal, and, in such premises, their application for condonation of delay could not be thrown away saying that the same has been filed after a long delay. In the aforesaid circumstance, this appeal could not be dismissed only on account of filing it at belated stage. Such aspect was considered by the Apex Court long before while considering the matter of substitution of legal representatives on record at very belated stage, i.e., near about six years in the matter of *Ram Sumiran v. D.D.C.*, 1985 ACJ 569 (SC) and the application was allowed.”

“14. Apart from the aforesaid, I am of the considered view that provision of claim under the *Motor Vehicles Act* has been enacted keeping in view social welfare of the society at large and under section 173 of the aforesaid Act provision for condoning the delay in filing the appeal has also been provided. If such law is enacted for welfare of the society at large, then merely on account of delay in filing the appeal, the appeal of a person like the appellants, out of them some were minors, could not be thrown away by dismissing the application under section 5 of the Limitation Act.”

6. For the reasons stated in the application, and as above cited law, I find sufficient cause for condoning the delay of 46 months in filing the appeal. Accordingly the I.A. No. 01/2023 is allowed. Delay of 46 months in filing the appeal is condoned.
7. List this case on monday i.e. 18.03.2024 for hearing on I.A. No. 02/2024, application for grant of stay.

Sd/-

(Arvind Kumar Verma)
Judge