

GAHC010034392025



2026:GAU-AS:3082

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/592/2025

GULSHAN BANU @ GULSHAN PARVEEN
W/O. LT. MOZIBUR RAHMAN, PERMANENTLY R/O. BARADIH BARRIYA,
P/O. ANS P/S. KESHRIYA, DIST. EAST CHAMPARAN BIHAR, TEMP. ADD.
WARD NO. 14, KHELMATI, NORTH LAKHIMPUR, ASSAM

VERSUS

THE CHOLAMANDALAM M/S. GENERAL INSURANCE COMPANY LTD.
4TH FLOOR ASTHA PLAZA, G.S. ROAD, OPP.- S.B. DEORAH COLLEGE,
ULUBARI, GUWAHATI, KAMRUP (M), ASSAM.

Advocate for the Petitioner : B R DAS, MS M BHARATI

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 27.02.2026

- 1.** Heard Mr. B. R. Das, the learned counsel for the applicant.
- 2.** Since, none has appeared for Opposite Party No. 1, in spite of due service of notice on them, this interlocutory application is proceeding *ex-parte* against the respondent No. 1. It also appears that the other respondents' names

were struck off on the request of the applicant.

3. This application under Section 5 of the Limitation Act, 1963 has been filed by the applicant, *Mustt. Gulshan Banu @ Gulshan Parveen* praying for condonation of delay of 2500 days in filing the connected MAC appeal, wherein, the applicant has impugned the judgment and award dated 11.01.2018 passed by the Motor Accident Claims Tribunal, North Lakhimpur, Assam, in MAC Case No. 1/2016 whereby a compensation amount of Rs.5,60,000/- was awarded to the present applicant.

4. The facts relevant for consideration of the instant interlocutory application, in brief, are that the present applicant had approached the Motor Accident Claims Tribunal, North Lakhimpur by filing an application under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of her husband in a motor vehicular accident on 10.09.2015. The said claim case was registered as MAC Case No. 1/2016, which was ultimately allowed by the judgment and award dated 11.01.2018, whereby the Tribunal directed the respondent Insurance Company to make a payment of an amount of Rs.5,60,000/- along with an interest at rate of 7.5% per annum to the present applicant.

5. The applicant in the instant interlocutory application has mainly taken grounds of her ailment as well as her illiteracy and ignorance about law as a cause of delay in preferring the connected appeal. The applicant has also filed an additional affidavit in this case, wherein more or less same grounds are reiterated along with some additional grounds.

6. Mr. B. R. Das, the learned counsel for the applicant has submitted that though the impugned judgment and award was passed on 13.01.2018, the

applicant came to know about the case only on 13.11.2018, when she was informed about the case by the engaged counsel. It is also submitted that on 15.11.2018, the applicant received the awarded amount from the Motor Accident Claims Tribunal. He submits that thereafter due to CAA agitation, the engaged counsel for the applicant could not apply for certified copies of the impugned judgment for the purpose of preferring appeal against impugned judgment. It is also submitted that in the early part of 2019, the applicant left for Bihar for treatment of her ailment.

7. The learned counsel for the applicant has further submitted that the applicant engaged the present counsel for preferring the appeal as well as the condonation delay application. However, the time taken for obtaining certified copy of the impugned judgment and award was almost 36 days i.e., from 10.01.2024 to 16.02.2024 which was not due to the fault of the applicant.

8. The learned counsel for the applicant has also submitted that in the meanwhile, the Court works were disrupted due to COVID-19. However, the Apex Court later on has exempted the period from 15.03.2020 to 28.02.2022 (703 days) from the period of computation for limitation purpose and the applicant would also get the benefit of the said period. He further submits that the applicant could not approach this Court for filing appeal between 28.02.2022 to 05.11.2023 due to medical reasons. The learned counsel for the appellant further submits that in the connected appeal filed by the applicant, there is every possibility of getting a favorable order as the Motor Accident Claims Tribunal had erred on many counts in passing the impugned judgment and awarded the compensation on a lower side.

9. The learned counsel for the applicant further submits that it is established principle of law that while dealing with application for condonation

of delay, the court should take a liberal and justice-oriented approach, more so, when the legislation involved in the case is a beneficial legislation like Motor Vehicles Act, 1988. He further submits that the length of delay in the instant case is not material as the grounds stated by the applicant are acceptable grounds and as such her substantive rights may not be curtailed by refusing to condone the delay.

10. The learned counsel for the applicant has cited following rulings in support of his submission:-

(i) "**Collector, Land Acquisition Vs. Mst. Katiji and Ors.**" reported in "(1987) 2 SCC 107"

(ii) "**N. Balakrishnan Vs. Krishnamurthy**" reported in "**(1988) 7 SCC 123**"

(iii) "**The State of Nagaland Vs. Lipok Ao**" reported in "**(2005) 3 SCC 752**"

11. I have considered the submissions made by learned counsel for the applicant and have gone through the materials available on record. I have also gone through the rulings cited by learned counsel for the applicant in support of his submissions.

12. Though, while dealing with an application for condonation of delay, more so, when the statute involved in the litigation is a beneficial litigation, the courts should take a liberal view and a justice oriented approach, however, that does not mean that by merely filing of a delay condonation application without any justifiable grounds, the delay in approaching the Court within the prescribed period of limitation shall have to be condoned in all cases. More so, when the delay is a huge delay, as in the present case (more than six years).

13. If we go through the interlocutory application as well as the additional affidavit and documents filed therein by the applicant, it would transpire that

even if the contention raised by the petitioner that she was informed about the impugned judgment after about ten months of the passing of the said judgment, i.e., on 13.11.2018 and that it is only on the said date she came to know about the impugned judgment is accepted and even if said delay is condoned, the period thereafter has not been properly explained by the applicant.

14. The entire period for the year 2019 till 15th March, 2020, when the lockdown had started due to outbreak of COVID-19 has not been explained. A mere bald statement that the appellant left for Bihar for treatment of her ailment cannot be regarded as a valid explanation for condoning such a huge period of delay. Thereafter, even if we exempt the period from 15.03.2020 to 28.02.2022 in view of the Apex Court's order, the period after 28.02.2022 till 03.01.2024 has not been explained by the applicant. Further, the period from 16.02.2024 till 15.02.2025 has also not explained by the applicant. Merely taking the plea of financial difficulty and illiteracy to cover up the said period does not appear to be a reasonable ground.

15. In the instant case, when the applicant has received the awarded amount, way back on 15.11.2018, the plea taken by the applicant for justifying some part of the delay and failure on her part to justify other parts as indicated herein before does not help the petitioner in any manner.

16. This Court after considering the grounds stated by the petitioner as well as also considering the fact that the petitioner has failed to properly explain the period of delay as indicated herein before, is of the considered opinion that she has failed to show sufficient cause which prevented her from approaching the Court for filing the connected appeal within the prescribed period of limitation.

17. The prayer for condonation of the delay of 2500 days is accordingly rejected and this interlocutory application is accordingly dismissed.

JUDGE

Comparing Assistant