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

Case No. : I.A.(Civil)/2830/2023

SMT MONALISA KALITA AND 3 ORS
WIDOW OF LATE PULIN KALITA, R/O VILL. BAREGHAR SATRA, P.O. AND
P.S. NAZIRA, DIST. SIVASAGAR, ASSAM.

2: SRI DHIRENDRA NATH KALITA @ DHIREN CH. KALITA

FATHER OF LATE PULIN KALITA
R/O VILL. BAREGHAR SATRA
P.O. AND P.S. NAZIRA
DIST. SIVASAGAR
ASSAM.

3: MISS ANGANA KALITA

D/O LATE PULIN KALITA
R/O VILL. BAREGHAR SATRA
P.O. AND P.S. NAZIRA
DIST. SIVASAGAR
ASSAM.

4: SRI NILUTPAL KALITA

S/O LATE PULINKALITA
R/O VILL. BAREGHAR SATRA
P.O. AND P.S. NAZIRA
DIST. SIVASAGAR
ASSAM. APPELLANT NO. 2 IS AN OLD AGED PERSON
APPELLANT NO. 3 AND 4 ARE MINOR ARE REPRESENTED BY APPELLANT
NO.

VERSUS

M/S B.L. AGARWALA AND 2 ORS
VILL. GOR ALI, JORHAT, P.O. AND P.S. JORHAT, DIST. JORHAT, ASSAM, PIN
785001 (OWNER OF THE VEHICLE NO. AS-03/AC-0981 TRUCK DUMPER)

2:SRI JAWAHIR RAWAT
VILL. BIHUBOR
P.O. AND P.S. BIHUBOR
DIST. SIVASAGAR
ASSAM
PIN 785687 (DRIVER OF THE VEHICLE NO. AS-03/AC-0981 TRUCK
DUMPER)

3:THE BRANCH MANAGER
THE UNITED INDIA INSURANCE CO. LTD.
JORHAT BRANCH
ASSAM
HAVING ITS REGIONAL OFFICE AT G.S. ROAD BHANGAGARH
GUWAHATI 781005 REPRESENTED BY ITS CHIEF REGIONAL MANAGE

Advocate for the Petitioner : MR. R P ROY, MR J ISLAM

Advocate for the Respondent : MR G JALAN (R-1), S K BEGUM(R-3),MS. M CHOUDHURY(R-3),MR SISHIR DUTTA (R-3)

Linked Case : I.A.(Civil)/3574/2018

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Advocate for : MR. R P ROY

Advocate for : MR. K K BHATTA appearing for M/S B.L. AGARWALA AND 2 ORS

Linked Case : MC/73/2023

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Advocate for : MR. R P ROY

Advocate for : appearing for M/S B.L. AGARWALA AND 2 ORS

Linked Case : MACApp./886/2018

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Advocate for : appearing for M/S B.L. AGARWALA AND 2 ORS

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date - 20.05.2026

- 1.** Heard Mr. R. S. Chauhan, the learned counsel for the applicant. Also heard Ms. M. Choudhury, the learned counsel for the respondent No.3. Also heard Ms. I. Kumari, the learned counsel for the respondent No.1.
- 2.** The notice to the respondent No. 2, who is the driver of the offending vehicle could not be served either by way of dasti mode or by speed post.
- 3.** The learned counsel for the applicant has submitted that MAC Appeal which was dismissed for default was filed by the present applicant on being aggrieved with the quantum of the compensation awarded to them, hence, he submits that under the facts and circumstances of this case, the notice to the respondent No.2, who is the driver of the offending vehicle and who may not be ultimately

required for deciding the issued, if the appeal is restored may be waived. The prayer is allowed.

- 4.** This Interlocutory Application has been filed by the applicant under Section 5 of the Limitation Act, 1963 praying for condonation of delay of 61 days in preferring the connected Interlocutory Application for restoration of I.A. (Civil)3574/2010, which is also an application for condonation of delay in preferring the connected MAC Appeal No. 886/2018.
- 5.** The learned counsel for the respondent Nos. 1 and 3 have no objection if the aforesaid delay is condoned.
- 6.** I have gone through the ground stated in the Paragraph No.3 in the instant Interlocutory Application and it appears that the ground stated are sufficient cause which prevented the applicant in preferring the connected application for restoration of I.A. (Civil) No. 3574/2018.
- 7.** Accordingly, this Interlocutory Application is allowed and the delay of 61 days is condoned.
- 8.** The Registry is directed to register the connected Interlocutory Application and list the same for in the Order Column on 15.06.2026.
- 9.** The copy of both the Interlocutory Applications may be furnished by the applicant to the learned counsel for the respondent Nos. 1 and 3.

- 10.** The names of Ms. M. Choudhury, may be reflected in the cause list as engaged counsel for the respondent No.3 as well as Ms. I. Kumari, may be reflected as the engaged counsel for the respondent No.1 in the cause list henceforth.
- 11.** This Interlocutory Application is, accordingly, disposed of.

JUDGE

Comparing Assistant