IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.668 of 2024
CNR No. ODHC010421652024

Divisional Manager, ... ***Appellant***
M.S. Shirama General
Insurance Company Limited,
Rajasthan

Represented by Adv. –
Mr. G.P. Dutta

-versus-

Sandip Kumar Pattnaik and another ..... ***Respondents***

Represented by Adv. – Mr. Ramesh Chandra Pradhan, Advocate for the Respondent No.1

CORAM:
MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
20.08.2026

Order No.	**I.A. No.1575 of 2024**
07.	1. This matter is taken up through Hybrid mode.

2. This interlocutory application has been filed by the Appellant with a prayer for condonation of delay of 2357 days in filing the appeal.

3. Heard the learned counsel for the Appellant as well as the learned counsel for the Respondent No.1.

4. Although notice was issued to Respondent No.2, however, and undelivered notice and the A.D. has not been received back by the

office. However, the postal tracking reveals that the item has been delivered to Respondent No.2. Accordingly, service of notice on the Respondent No.2 is treated to be sufficient.

5. By filing the above noted appeal, the Appellant-Insurance seeks condonation of delay of 2357 days in filing the present appeal.

6. Mr. G.P. Dutta, learned counsel appearing for the Appellant-Insurance Company, at the outset, contended that there exists good ground for such condonation of delay. He further contended that Appellant-Insurance Company did not get the opportunity to participate in the trial. As a result of which, the award has been passed ex parte against the Appellant-Insurance Company. He further contended that the identity of the Claimant does not tally with the police papers submitted in the connected criminal case. It was also brought to the notice of this Court that the status of the criminal case is not known. Therefore, it cannot be conclusively ascertained that the Claimant was the injured in the accident unless the Insurance Company given an opportunity to participate in the trial. Accordingly, the Insurance Company approached this Court by filing the above noted appeal. It was admitted that there is some delay due to procedural formalities of the Insurance Company. He further contended that such delay in filing the appeal cannot take away the right of the Insurance Company, particularly in the facts and circumstances of the present case.

7. Learned counsel for the Respondent No.1-Claimant, on the other hand, contended that delay has not been properly explained. He further contended that delay in preferring the appeal is inordinate and

that the same could not be condoned. It was also submitted before this Court that in the event the delay is condoned, the same would cause serious prejudice to the Claimant.

8. Taking into consideration the submissions made by the learned counsels appearing for both sides, further keeping in view the fact that there exists a dispute with regard to the identity of the Injured and same does not tally with police papers, this Court is of the view that in the present case the delay should be condoned and the appeal be heard on merits. Moreover, laches on the part of the Insurance Company can very well be compensated by imposing cost.

9. In such view of the matter, this Court is inclined to condone the delay of 2357 days, subject to Appellant-Insurance Company pay a cost of Rs.5,000/- (Rupees) to the Claimant-Respondent No.1. Such cost was paid in Court and duly acknowledged by the learned counsel for the Respondent No.1-Claimant.

10. Accordingly, the I.A. stands disposed of.

MACA No.668 of 2024

11. With the consent of the learned counsel for the parties, the present appeal was taken up for hearing.

12. Heard Mr. G.P. Dutta, learned counsel appearing for the Appellant-Insurance Company as well as Mr. Ramesh Chandra Pradhan, learned counsel appearing for the Respondent No.1-Claimant. Despite valid service of notice on Respondent No.2-owner of the vehicle, no one appears on behalf of the Respondent No.2.

13. By filing the above noted appeal under Section 173(1) of the M.V. Act, 1988, the Appellant-Insurance Company seeks to challenge the ex parte award dated 25.09.2017 passed by the Member, 7th M.A.C.T., Bhubaneswar in M.A.C. No.96 of 2014. By virtue of the impugned ex parte award dated 25.09.2017, the learned Tribunal has awarded a total compensation of Rs.14,80,800/- along with interest @ 6% to the Respondent No.1-Claimant.

14. Mr. G.P. Dutta, learned counsel appearing for the Appellant-Insurance Company, at the outset, contended that although notice was served on the Insurance Company, however, due to laches on the part of the dealing counsel, the date of the case was not duly communicated to the Insurance Company, as a result of which, they could not participate in the trial. He further submitted that in the absence of the Appellant-Insurance Company, the learned Tribunal has delivered ex parte judgment awarding the compensation in favour of the Respondent No.1-Claimant as has been indicated hereinabove. While assailing the ex parte judgment dated 25.09.2017, learned counsel appearing for the Appellant-Insurance Company contended before this Court that many aspects having a direct and substantial bearing on the outcome of the trial in the above noted MAC case were not raised before the learned Tribunal by the time the final judgment was delivered in the aforesaid case. For example, learned counsel for the Appellant contended before this Court that the identity of the injured-claimant has not been properly established. In the aforesaid context, it was submitted before this Court that the name of the injured does not tally with the police papers in Chandili P.S. Case No.37 of 2014,

which corresponds to G.R. Case No.125 of 2014, which was registered under Sections 279/337/338 of I.P.C. In such view of the matter, learned counsel for the Appellant-Insurance Company contended that the learned Tribunal should have provided an opportunity of hearing to the Appellant-Insurance Company before passing the final order. On the contrary, learned Tribunal has gone ahead to set the Appellant-Insurance Company ex parte and proceeded with the final hearing of the M.A.C. Case and eventually delivered the impugned judgment. It was also demonstrated before this Court that there are many flaws in the impugned award for which the same is legally unsustainable. In such view of the matter, learned counsel for the Appellant-Insurance Company contended before this Court that the impugned award is unsustainable in law and, accordingly, the same should be set aside.

15. Learned counsel for the Respondent No.1-Claimant, on the other hand, contended that the learned Tribunal has not committed an illegality in delivering the final award dated 25.09.2017. He further contended that despite valid service of notice on the Appellant-Insurance Company in the abovenoted MAC case, the Appellant-Insurance Company preferred not to appear before the learned Tribunal. As a result of which, the Appellant-Insurance Company was set ex parte along with the owner of the vehicle. Accordingly, the learned Tribunal proceeded with the trial and delivered an ex parte award. In such view of the matter, learned counsel for the Claimant-Respondent No.1 contended that the Tribunal has not committed any illegality and that the impugned judgment does not suffer from any legal infirmity. As such, the same is not liable to be interfered with in

the present appeal.

16. Having regard to the submissions made by the learned counsels appearing for the respective parties, on a careful examination of the background facts as well as the materials on record, further on close scrutiny of the impugned ex parte judgment dated 25.09.2017, this Court found that the award has been delivered without hearing the owner of the vehicle as well as the Insurance Company. Further, the impugned judgment in para-3 clearly reflects that both the Opposite Parties were set ex parte on 16.05.2017. Moreover, this Court found that there are substantial issues which go to the root of ex parte judgment dated 25.09.2017. Additionally, there exists a discrepancy with regard to the identity of the Claimant-Injured which has not been reconciled.

18. On a careful analysis of the submission made by the learned counsel for the Appellant-Insurance Company as well as on close scrutiny of the grounds taken, this Court is of the view that the Appellant-Insurance Company has made out a good case for de novo trial after providing opportunity of hearing to the Appellant-Insurance Company to participate in the trial. However, it cannot be accepted that the Appellant-Insurance Company was not at fault since there definitely were laches on the part of the Appellant-Insurance Company for not participating in the trial. Hence, the impugned judgment dated 25.09.2017 is set aside subject to payment of cost of Rs.10,000/- (Rupees Ten Thousand) to the Respondent No.1-Claimant which shall be deposited before the learned Tribunal within eight weeks from today. The matter is remanded back to the learned Tribunal for fresh

trial from the stage of filing of written statement by the Insurance Company. Both the Appellant-Insurance Company as well as Respondent No.1-Claimant are directed to appear before the learned Tribunal on 7th September, 2026 along with a copy of this order. Thereafter, the learned Tribunal shall fix the next date. Considering the fact that the case is of the year 2014, learned Tribunal shall make every endeavour to conclude the trial as expeditiously as possible, preferably within a period of six months.

19. Accordingly, the MACA stands allowed.

(Aditya Kumar Mohapatra)
Judge

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Signed by: DEBASIS AECH
Designation: SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT
Date: 24-Aug-2026 20:44:09