

12-08-2022
Item no.14
Subrata

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction

CAN No.1 of 2020
in
FAT No.297 of 2020
Biswanath Karmakar
-VS-
The Oriental Insurance Company Limited & Anr.

Mr. Bratindra Narayan Ray ...for the appellant

CAN No.1 of 2020 filed seeking condonation of delay in preferring the appeal is taken up for hearing.

Learned counsel for the appellant submits that in view of an order of the Hon'ble Supreme Court dated March 8, 2021 passed in Suo Motu Writ Petition (Civil) No.3 of 2020, the period during which the appellant ought to have filed the appeal would stand exempted. As such, learned counsel submits that the s.5 Limitation Act application may be allowed without due service upon the respondents.

This appeal was preferred assailing a judgement and award dated March 12, 2020 passed by the learned Judge, Motor Accident Claims Tribunal, FTC-I Sealdah, South 24-Parganas in MACC No.5 of 2018 arising out of MACC No.19 of 2008.

It appears that this appeal has been preferred on October 21, 2020. This court can take judicial notice that owing to lock-down and pandemic situationi prevailed all the over the country since middle of March 2020, normal functioning of the court work came to a halt.

The Hon'ble Supreme Court in its order dated March 8, 2021 passed in the aforementioned case held that in cases where the limitation would have expired during the

period between March 15, 2020 till March 14, 2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from March 15, 2021.

Therefore, in the light of the Hon'ble Supreme Court's order, I am of the view, the delay in preferring the appeal should be condoned.

Accordingly, the s.5 Limitation Act application – **CAN No.1 of 2018 (Old CAN No.889 of 2018)** – stands **allowed** condoning the delay in preferring the appeal.

Let the appeal be admitted and formally registered.

Call for the LCR by special messenger, as suggested by learned counsel appearing for the appellant.

The appellant is directed to deposit the special messenger's cost within ten days from date.

After the special messenger's cost is deposited, the department shall take effective steps so that the LCR is received from the concerned learned tribunal within three weeks from the date of communication of this order.

Once the LCR is received and found complete on its examination, notice of arrival of LCR be served upon the learned lawyer for the appellant.

The appellant shall prepare requisite number of informal paper books – typewritten, cyclostyled or printed out of court – and file the same in court within fifteen days thereafter.

The appellant is directed to serve notice of appeal upon the respondents by speed post with AD within ten days from date and file affidavit of service on the date when

the appeal shall be taken up for hearing.

Let the matter go out of the list for the time being.

Liberty to mention for listing the appeal for its hearing and disposal, once the paper books are prepared and filed in court.

[Rabindranath Samanta, J]