

IN THE HIGH COURT OF JHARKHAND AT RANCHI
M.A. No.99 of 2023

With
I.A. No.4680 of 2023 & I.A. No.4681 of 2023

Ajit Jaiswal

..... Appellant.

-Versus-

1. M/s United India Insurance Co. Ltd. through its Divisional Manager, Dhanbad.
2. Rani Devi
3. Ashok Sharma @ Ashok Sgarna

..... Respondents.

CORAM : HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Appellant : Mr. Shivendra Kumar Singh, Advocate
For Res. No.1 : Mr. Ajay Kumar Pathak, Advocate

Order No.04

Date: 13.06.2024

1. The present miscellaneous appeal has been filed against the award dated 29th July, 2017 passed by the District Judge-XI-cum-MACT Judge, Dhanbad in Motor Accident Claim Case No.61 of 2016, whereby the claim case filed by the claimants- respondent nos.2 and 3 has been allowed, directing the appellant-owner of the truck bearing Registration No.WB 41A 6963 to pay the awarded amount of Rs.13,21,000/- as compensation along with interest @ 6% per annum from the date of filing of the claim petition.
2. I.A. No.4680 of 2023 has been filed on behalf of the appellant under Section 5 of Limitation Acct seeking condonation of delay of 1267 days in filing the present appeal.
3. The appellant has stated the reasons for the delay caused in filing the present appeal, the relevant paragraphs of which read as under:

"4. That the applicant could not file the appeal before the Hon'ble court, within stipulated period of time as his

father has been suffering from various ailments viz. diabetic and heart related ailments whose responsibilities exclusively lies on the appellant who finds it tough to leave the home because of various complications that develops suddenly to his father who is in need of 24 hours observation of the family members. The appellant is so emotionally attached to his parent's care and always attends him since his mother is no more.

5. That the petitioner because of this compulsion gave a full authority to do the pairvi of this Case to the brother - in law of his brother since he was the resident of Jharia and he had engaged a lawyer for appellant's case and every thing from beginning to end was done on behalf the appellant by him. The appellant had a complete trust and faith in him and due to this reason he was in faith that he would be following this issue as his own and with responsibility.

6. That the appellant was dead sure that if any vital progress would happen that would be communicated to him but this never happened.

7. That when the appellant got the notice from District Judge VIth Dhanbad regarding execution case no 18/2022 which arose out of Title Motor Accident Compensation Case No. 156/2016 he got shocked from the indifference shown by his own brother's relative since he was completely kept in dark regarding the court proceedings and it's orders wherein and whereby the appellant was warned to appear in court in person or by pleader.

8. That the appellant was not in position what to do and what not to do since he could not leave his ailing father unattended anyhow he managed the attendance of his relatives for taking care of his father and reached Dhanbad Court and got the necessary papers(certified copies) applied Then after a few days after receiving the required papers proceeded for Ranchi and consulted a lawyer.

9. That the appellant financial condition is not so good, his business got crumbled because of illness and health condition that further deteriorated after covid symptoms detected and not availability of time required to be devoted in business any how managed the lawyer's fee.

10. That the appellant was asked by his lawyer to manage some more papers for getting the facts of the case and this took some more time in getting the papers."

4. Learned counsel for the appellant, while opposing the appellant's prayer for condonation of delay, submits that the aforesaid

reasons stated in the present interlocutory application are frivolous in nature and therefore, the same deserves to be outrightly rejected.

5. Having heard learned counsel for the parties, the reasons stated by the appellant in the said interlocutory application with respect to committing delay of 1267 days in filing the present appeal cannot be said to be appropriate so as to condone the same.
6. In the case of ***Brahampal @ Sammay & Anr. Vs. National Insurance Company, reported in (2021) 6 SCC 512***, the Hon'ble Supreme Court has held that the Courts have to distinguish the cases where delay is of few days as against the cases where delay is inordinate, as it might accrue to the prejudice of the rights of the other party. In such cases, where there is inordinate delay and the same is attributed by the party's inaction and negligence, the Courts have to take a strict approach so as to protect the substantial right of the affected party.
7. Since the appellant has failed to reasonably explain the inordinate delay of 1267 days in filing the present appeal, I.A. No.4680 of 2023 seeking condonation of delay is, accordingly, dismissed.
8. Consequently, the present appeal is also dismissed.
9. I.A. No.4681 of 2023 seeking permission to give additional evidence is also dismissed.

Sanjay/vs

(Rajesh Shankar, J.)