

GAHC010031772024



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

Case No. : I.A.(Civil)/1247/2024

NATIONAL INSURANCE CO. LTD.

HAVING ITS REGISTERED OFFICE AT 3, MIDDLETON STREET, KOLKATA
AND ONE OF THE REGIONAL OFFICE AT G.S. ROAD, BHANGAGARH,
GUWAHATI.

VERSUS

SITA GIRI AND 5 ORS.

W/O SRI AMAR GIRI,

VILL.- MAINAJULI GAON, P.S.- DHEKIAJULI, DIST.- SONITPUR, ASSAM,
PIN- 784503.

2:THE UNITED INDIA INSURANCE CO. LTD

REGIONAL OFFICE AT G.S. ROAD

DISPUR.

3:AMBIYA BIBI

W/O BAREK ALI

VILL.- BALESIA GAON

P.O. AND P.S.- DHEKIAJULI

DIST.- SONITPUR

ASSAM

PIN- 784110.

4:ANOWAR ALI

S/O MD. BAREK ALI

WARD NO-6

BALESIA

P.O. AND P.S.- DHEKIAJULI

DIST.- SONITPUR

ASSAM
PIN- 784110.

5:AMAR GIRI
S/O LATE KARNA GIRI

VILL.- MAINAJULI GAON
P.S.- DHEKIAJULI
PIN- 784503
DIST.- SONITPUR
ASSAM

Advocate for the Petitioner : MR. K K BHATTA, MRS L SHARMA

Advocate for the Respondent : MR. R C PAUL(R-2),

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

16.08.2024

Heard Ms. L. Sharma, learned counsel for the applicant-appellant. Also heard Mr. A.R. Das, learned counsel for the opposite party-respondent no. 2.

2. As per office note dated 16.07.2024, service in respect of the other respondents i.e. opposite party-respondent nos. 1, 3, 4 and 5 stands completed. However, none appears for the aforesaid opposite parties-respondents when matter is called today.
3. This is an application under Section 5 of the Limitation Act for condonation of delay of 97 days in filing the accompanying MAC Appeal.
4. Ms. Sharma, learned counsel for the applicant-appellant submits that the delay of 97 days in filing the accompanying MAC Appeal had occurred due to the time taken by the Head Office and the Regional Officer in deciding as regards filing of the accompanying appeal. She accordingly submits that the aforesaid delay is procedural and therefore, warrants to be

condoned.

5. Mr. Das, learned counsel for the opposite party-respondent no. 2 fairly submits that he has not received instruction to object the condonation of delay prayed for in the interlocutory application.

6. I have given my prudent consideration to the arguments made by the learned counsel for the parties and have perused the materials available on record as well as the explanation given in the present interlocutory application for condoning the delay of 97 days in filing the accompanying appeal.

7. Paragraph no. 4 to 6 of the interlocutory application is reproduced hereinbelow for ready reference.

4. That the petitioner submits that in order to take decision as to whether an appeal is to be filed or not, the files are required to be collected from dealing Advocate and then is processed from the Divisional Office to the Regional Office, who also requires legal opinion from it's High Court panel Advocate before coming to a decision and the Regional office thereafter sent the file to the Head Office for approval and consequently, it is quite natural that considerable time is spent in movement of the file from one office to another and in taking the decision thereon. Again the Advocate required at least 5-6 days time to prepare the memo of appeal, stay petition and the instant condonation petition and as such, there has been a delay in filing the appeal and the same is now required to be condoned. The reasons for delay, as mentioned above, could not have been avoided in view of the circumstances narrated above. Hence, inspite of best efforts made by the company, the appeal could not be filed within time.

5. That your humble petitioner begs to submit that in order to take a decision whether an appeal is to be filed or not, the files are required to be collected from dealing Advocate and then it is processed from the Divisional Office to the Regional Office and thereafter to the Head Office and consequently, it is quite natural that considerable time is spent in movement of the file from one office to another and

taking decision thereon. The Divisional Office of the petitioner Company had received the certified copy of the judgment on 17.08.2023 along with opinion of dealing advocate and thereafter deliberations were held among officers at Divisional Office at Tezpur and sent the file to the Regional Office on 05.09.2023 and thereafter the Regional Office obtained a legal opinion from it's High Court panel advocate and after obtaining opinion from its High Court's panel advocate, who suggested for filling an appeal on 27.09.2023. The Regional Office after completion of necessary formalities had sent the record to Kolkata Head Office on 26.10.2023 for approval for appeal and after receiving the file, the head office sought some clarification from the Regional Office at Guwahati and in this process considerable time was consumed and after getting clarification from its regional office, the Head Office returned it to the Regional Office at Guwahati with a recommendation to file an appeal and the same was received by Regional Office at Guwahati on 03.02.2024 and thereafter the Regional Office handed over the file to the engaged Counsel at Guwahati to prepare Memo of Appeal along with delay condonation petition and stay petition. The said Advocate had received the entire documents on 07.02.2024. Again the advocate required another 5-6 days time to prepare the memo of appeal, stay petition and the condonation petition etc. and as such, there has been a delay in filing the appeal and the same is now required to be condone. The reasons for delay, as mentioned above, could not have been avoided in view of the circumstances narrated above. Hence in spite of best efforts made by the Company, the appeal could not be filed within time.

6. That your humble applicant begs to state that as a Public Sector General Insurance Co Ltd; it is required to act strictly as per the laid down procedure and as such, the files are required to be routed from one office to another and thereafter only the final decision to prefer an appeal or not is taken after obtaining the opinion of the dealing Advocate as well as the Advocate practicing in High Court and in this procedural aspect, a considerable time is spent.

8. Apparent that the said delay of 97 days had occurred due to the time taken by the authorities to take a decision to prefer the appeal. Thus, I am of the considered view that the explanation forwarded by the applicant-appellant is sufficient and bona fide and as such, the delay warrants to be condoned. Accordingly, it is provided that the delay of 97 days in filing

the accompanying appeal is condoned.

9. Let the office register the accompanying appeal.

10. The interlocutory application stands disposed of.

JUDGE

Comparing Assistant