

GAHC010066252024



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

**Case No. : I.A.(Civil)/1281/2024**

MD. AMDADUL ISLAM  
S/O LATE ABDUL JABBAR,  
VILL.- DUWAMARI,  
P.O. AND P.S.- LAHARIGHAT, DIST.- MORIGAON, ASSAM, PIN- 782127.

VERSUS

NATIONAL INSURANCE CO. LTD. AND 2 ORS.  
REP. BY THE REGIONAL MANAGER, GUWAHATI REGIONAL OFFICE, G.S.  
ROAD, BHANGAGARH, GUWAHATI- 781005.

2:MD. ABDUL BASAR  
S/O NURUL ISLAM

VILL.- BHEHAGURI  
P.O.- MIKIRBHETA  
P.S.- MORIGAON  
DIST.- MORIGAON  
ASSAM  
PIN- 782001.

3:MD. NURUL ISLAM  
S/O LATE MAHMOD HUSSAIN

VILL.- BHEHAGURI  
P.O.- MIKIRBHETA  
P.S.- MORIGAON  
DIST.- MORIGAON  
ASSAM  
PIN- 782001

**Advocate for the Petitioner : MR. M TALUKDAR,**

**Advocate for the Respondent : MRS. D DAS BARMAN(R-1),**

**BEFORE  
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

**ORDER**

**16.08.2024**

Heard Mr. M. Talukdar, learned counsel for the applicant-claimant. Also heard Ms. D. Das Barman, learned counsel for the opposite party-respondent no. 1.

2. As per office note dated 11.07.2024, service in respect of the other respondents i.e. the opposite parties-respondent nos. 2 and 3 stands completed. However, none appears for the aforesaid opposite parties-respondents today when the matter is called today.

3. This is an application under Section 5 of the Limitation Act for condonation of delay of 223 days in filing the accompanying MAC Appeal.

4. Mr. Talukdar, learned counsel for the applicant-claimant submits that the delay of 223 days in filing the accompanying MAC Appeal had occurred due the applicant-claimant being a permanent disabled person and due to his financial condition. Mr. Talukdar accordingly submits that the aforesaid delay therefore, warrants to be condoned.

5. Ms. Das, learned counsel fairly submits that she 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 223 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 applicant is a poor person residing in the remote area at Village-Duwamari in the district of Morigaon, Assam. The applicant sustained grievous injuries due to the motor vehicular accident and as a result, he has become permanently disabled. He took treatment in different hospitals. But till date he has not been fully cured. He cannot move without the support of others. Further, the applicant has been passing through financial crisis as he lost his earning capacity due to the accident. Under the circumstances, although on several occasions, the applicant made attempts to come to Guwahati for filing appeal against the judgment and order passed by the Learned Motor Accident Claims Tribunal, Morigaon but he failed. Ultimately, he somehow arranged some money and managed to come to Guwahati only on 26.02.2024. The applicant met his present counsel at Guwahati on that very day and handed over all the necessary documents for filing & appeal to the said counsel. Thereafter, the counsel for the applicant took some time for preparation of the appeal and the same has been filed on 29.02.2024. Hence, there is a delay of 223 days in filing the connected appeal.

5. That the applicant states that there is no negligence or laches on his part. It is only due to the reason beyond the control of the applicant, the appeal could not be filed at any earlier point of time.

6. That applicant states that there are adequate and sufficient reasons which prevented him from filing the appeal in time. The delay not being intentional or deliberate that may kindly be condoned by Your Lordships for the ends of justice and thereafter, the appeal may be heard on merits.

8. Apparent that the said delay of 223 days had occurred due to the applicant's-claimant's health and financial conditions. 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 223 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**