

THE HIGH COURT OF SIKKIM : GANGTOK

(Civil Appellate Jurisdiction)

DATED : 7th December, 2020

SINGLE BENCH : THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

I.A. No.01 of 2020 in M.A.C. App. No.03 of 2020

Appellant : The Branch Manager, National Insurance
Company Limited

Versus

Respondents : Rohit Kumar Gurung and Others

Application under Section 173(1) of the
Motor Vehicles Act, 1988

Appearance

Mr. Madan Kumar Sundas and Mr. Sushant Subba, Advocates for the
Appellant.

Ms. Vidya Lama and Mr. N.T. Sherpa, Advocates for Respondents
No.1 to 3.

Mr. K.B. Chettri, Advocate for Respondent No.4.

Mr. Umesh Gurung, Advocate for Respondent No.5.

O R D E R (ORAL)

Meenakshi Madan Rai, J.

1. I.A. No.01 of 2020 is an application filed by the
Appellant under Section 173(1) of the Motor Vehicles Act, 1988
("M.V. Act") seeking condonation of delay of sixty three days in
filing the Appeal.

2. Learned Counsel for the Appellant submits that the
delay occurred on account of the fact that the impugned Award
was passed by the Learned Member, Motor Accidents Claims
Tribunal, East Sikkim at Gangtok in M.A.C.T. Case No.71 of 2017
on 31.10.2019. Although the Appellant applied for a Certified Copy
of the impugned Judgment on 01.11.2019, it was made available
only on 03.02.2020. The Branch Office at Gangtok was forwarded

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the Copy by the Counsel and received by them on 05.02.2020. Thereafter it was forwarded to the Regional Office at Kolkata on 13.02.2020 and returned with the instructions from the Kolkata Regional Office to the Branch Office at Gangtok to file the Appeal on 19.03.2020. On instructions thereof, on 20.03.2020, Counsel was appointed to file the Appeal. The ninety days limitation expired on 03.05.2020. The delay occurred further due to the nation wide lockdown and the inability thereby to appoint a Counsel for filing the Appeal. On 11.06.2020, the Counsel was appointed and the Appeal filed on 24.06.2020 and hence it is prayed that the grounds for delay have been detailed and the delay of sixty three days may be condoned.

3. Opposing the delay of sixty three days, Learned Counsel for the Respondents submitted that the Appellant had sufficient time to file the Appeal in terms of the provisions of law and the Courts were open from the month of April, 2020 and the Appeal could well have been filed Online. Hence, the Petition deserves no consideration.

4. I have heard Learned Counsel for the parties at length and considered their submissions.

5. The Hon'ble Supreme Court vide its Order dated 23.03.2020 in Suo Motu Writ Petition (Civil) No(s).3/2020, "*In Re:Cognizance for Extension of Limitation*" had ordered *inter alia* as follows;

"This Court has taken Suo Motu cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/ suits/appeals/all other proceedings within the period of limitation

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prescribed under the general law of limitation or under Special Laws (both Central and/or State).

To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings."

6. Having considered the detailed grounds put forth by the Learned Counsel for the Appellant in the Petition and his submissions and also bearing in mind the ratio of the Hon'ble Supreme Court *supra*, I am of the considered opinion that the delay has been sufficiently explained and deserves to be and is accordingly condoned.

7. Consequently I.A. No.01 of 2020 is allowed and disposed of.

(Meenakshi Madan Rai)

Judge

07.12.2020