GAHC020001262026

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

Case No. : I.A.(Civil)/33/2026

ORIENTAL INSURANCE CO. LTD.
REGISTERED HEAD OFFICE OF ORIENTAL HOUSE A-25/27, ASAF ALI ROAD, NEW DELHI - 110002 AND REGIONAL AND DIVISIONAL OFFICES IN SEVERAL PLACES INCLUDING A REGIONAL OFFICE AT GUWAHATI, ASSAM AND DIVISIONAL OFFICE AT DIMAPUR, NAGALAND.

VERSUS

SHRI MANOHAR SINGH AND 2 ORS
S/O LATE JHULAN SINGH, PRESENTLY RESIDING AT C/O VIKRAM SINGH, TUENSANG TOWN, TUENSANG, MOKOKCHUNG ROAD, NAGALAND

2:SMTI. CHANDANA DEKA
W/O SHRI. PRAHLAD DEKA FLAT NO. 402
AMAR APARTMENT
ASHOK PATH
SURVEY BELTOLA
GUWAHATI
KAMRUP
METROPOLITAN - 781028 (VEHICLE OWNER)

3:SHRI BIKASH PODDAR
S/O LATE NIRANJAN PODDAR
HOUSE NO. 29
WARD NO. 17
NEAR GYAN JYOTI ENGLISH SCHOOL
P.O. FATASIL AMBARY
KAMRUP
(M)-781034 (DRIVER

Advocate for the Petitioner : KIM PIENYU,

Advocate for the Respondent : ,

Linked Case : I.A.(Civil)/34/2026

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Advocate for : KIM PIENYU
Advocate for : appearing for SHRI MANOHAR SINGH AND 2 ORS

Linked Case : MACApp./6/2026

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Advocate for : KIM PIENYU
Advocate for : B. N. SARMAH (R-1) appearing for SRI. MANOHAR SINGH AND 2 ORS

BEFORE
HONBLE MRS JUSTICE HELEN DAWNGLIANI

ORDER

05.11.2026

Heard Ms. Kim Pienyu, learned counsel for the Applicant and Mr. B.N. Sarmah, learned counsel alongwith Mr. Imtiwapang, learned counsel for Respondent No. 1.

2. This application is filed under Section 5 of the Indian Limitation Act, 1963 praying for condonation of delay of 949 (Nine Hundred and Forty Nine) days in filing an appeal against the Judgment and Award dated 24.07.2023 passed by the learned Member, Motor Accident Claims Tribunal, Tuensang in MAC Case No. 22/2009 wherein an award of Rs. 14,45,068 (Rupees Fourteen Lakhs Forty Five Thousand and Sixty Eight) was passed alongwith interest @7.5% per annum from the date of filing the claim petition, i.e. 24.07.2019 till the payment of the Award within 30 (Thirty) days was imposed upon the Appellant/Applicant.

3. Ms. Kim Pienyu, learned counsel for the Applicant submitted at the outset that though in the application the number of days delay have been mentioned as 949 (Nine Hundred and Forty Nine) days, the same may be corrected as 952 (Nine Hundred and Fifty Two) days in view of the fact that there was a leap year in between the Judgment and the date of filing the instant appeal.

3.1. The learned counsel submitted that the Appellant has a Divisional Office at Dimapur in the State of Nagaland and its Regional Office is

located at Guwahati, Assam. The Appellant's Divisional Office at Dimapur received the Judgment dated 24.07.2023 only on 28.09.2023. On receiving the Judgment and Award, the Divisional Office at Dimapur forwarded the entire file along with the Judgment and Order to the Regional Office at Assam. The Appellant deputed their empaneled counsel to file an appeal before this court on 08.11.2023.

3.2. Since there was no update of the filing of the appeal, the Appellant sent a letter reminding their counsel to file the appeal on 04.11.2025. The Company sent several letters and reminders to their empaneled lawyer and also tried to contact the deputed counsel telephonically, but failed to get any response from their counsel.Finally, as per the Company's policy, the Company empaneled a new counsel who is the present counsel on 27.01.2026, and upon inquiry, it was found that the appeal has not been filed. It was further submitted that the appeal period being 90 (Ninety) days from the date of the Judgment, and since the Judgment was passed on 24.07.2023, the appeal period expired on 22.10.2023.

3.3. The learned counsel submitted that after she has the instruction to file an appeal, she received the hard copy of the file on 29.01.2026, and thereafter she immediately prepared the appeal and connected interlocutory application and forwarded the same to the Applicant's Divisional Office in Dimapur on 02.02.2026, and the appeal could be filed on 02.03.2026, and within which time there was delay of 952 (Nine Hundred and Fifty Two) days as mentioned above.

3.4. The learned counsel therefore submitted that considering the

nature of events, it is clear that there was no willful negligence or default on the part of the Appellant Company. It is also submitted that the counsel who was dealing with the case in the Motor Accident Claims Tribunal had worked with the Appellant Company for a number of years and it was in good faith that they had entrusted the responsibility of filing the appeal and the Company waited for nearly two years on the belief that he must have filed the appeal.

3.5. Turning to the merits of the case, the learned counsel submitted that the appeal involves good grounds and there is every likelihood of succeeding in the appeal, and that if the delay is not condoned or the application is dismissed on technical ground, this would gravely prejudice the Appellant's Company and it will amount to failure of justice. The learned counsel also submitted that it is in the interest of justice, equity, and fair play that the instant application is allowed and delay of 952 (Nine Hundred and Fifty Two) days may be condoned.

3.6. In support of her submission, the learned counsel has placed reliance in the decision of the Hon'ble Apex Court in the case of ***Rafiq and Another vs. Munshilal and Another*** reported in ***(1981) 2 SCC 788*** and the decision of a co-ordinate Bench of this Court in the Order dated 09.08.2022 in ***I.A.(Civil) (Oriental Insurance Company Limited vs. Purnima Gogoi and 2 others)***.

4. Mr. B.N. Sarmah, learned counsel for the Respondent No.1/Claimant, opposed the application by submitting that the Applicant has not offered any sufficient explanation for the delay.He further

submitted that as per calculation, the number of delays delay comes to 954 (Nine Hundred and Fifty Four) days, and even if the submission of the counsel for the appellant in the court today, that the number of days delay may be read as 592 (Five Hundred and Ninety Two) days delay is taken into account, therefore, 3 (Three) days remained unexplained by the Applicant. The learned counsel submitted that the delay is neither reasonable or sufficiently justified, and it depicts clear negligence, indifference, and bureaucratic lethargy.

4.1. The learned counsel submitted that from the date of the Judgment, i.e. 24.07.2023 to 31.12.2023, there are 160 (One Hundred and Sixty) days. The entire year of 2024 has 365 (Three Hundred and Sixty Five) days. The entire year of 2025 has 365 (Three Hundred and Sixty Five) days. From 01.01.2026 to 06.03.2026 when the appeal was filed, there were 64 (Sixty Four) days. So the total of these days comes to 954 (Nine Hundred and Fifty Four) days. And the prayer for condonation of delay is only for 949 (Nine Hundred and Forty Nine) days, and even if 952 (Nine Hundred and Fifty Two) days is taken into account, 3 (Three) days remained unexplained.

4.2. It is further submitted by the learned counsel that it is further submitted by the learned counsel that the Judgment dated 24.07.2023 was apparently received by the Appellant only on 28.09.2026, which is after 66 (Sixty Six) days, without furnishing any explanation whatsoever. This itself reflects gross negligence from the very inception.

4.3. It is further submitted that, as per the application, the Judgment

dated 24.07.2023 was forwarded to the Regional Office is deliberately vague and no dates or records were mentioned. However, it was alleged that an instruction to file an appeal was given to the learned counsel by its Letter dated 08.11.2023, which shows that there already was a delay of 107 (One Hundred and Seven) days, which remained unexplained. The most glaring instance of negligence is the alleged follow-up made only on 04.11.2025 after a shocking delay of about 695 (Six Hundred and Ninety Five) days, which clearly establishes complete inaction and abandonment of the matter. The learned counsel submitted that the assertions regarding Letters and telephonic contact are self-serving, unsubstantiated, and clearly concocted to create an illusion of diligence.

4.4. Mr. B.N. Sarmah, learned counsel further submitted that during this entire period, the Applicant remained completely inactive and failed to take basic steps, such as personally contacting the counsel to ascertain the status of the appeal, and this clearly demonstrates negligence, inaction, and lack of diligence on the part of the Applicant. It was further submitted by the learned counsel that the Petitioner or the Applicant has slept over their rights until they received a notice with regard to execution dated 03.10.2024, 23.01.2025, 06.05.2025, and 04.10.2025, and it was only thereafter that the follow-up action was taken actively.

4.5. It is submitted by the learned counsel that from the date of the Judgment to the filing of the appeal on 06.03.2026, there was a delay of more than 2 (Two) years, and it is well settled by the Supreme Court and the various High Courts that mere movement of files between Offices or the internal administrative delay within a corporate or governmental setup

cannot constitute sufficient cause for condonation of delay. The Hon'ble Supreme Court and Hon'ble High Courts have repeatedly held that internal administrative inefficiencies or delay due to bureaucratic functioning does not constitute good grounds for condonation of delay.

4.6. According to the learned counsel, the appeal has been filed after inordinate delay only to delay payment of the awarded amount. The learned counsel submitted that the condonation of an extraordinary and unexplained delay of more than two and a half years would cause grave and irreparable prejudice to the answering Respondent, the Respondent being a beneficiary of a lawful award is being deprived of the fruits of litigation solely due to the Applicant's negligence. That the Applicant has miserably failed to demonstrate any sufficient cause which would justify condonation of the delay.The learned counsel therefore submitted that no sufficient ground have been made out to condone the delay and thus pray to reject the application. In support of his submissions, the learned counsel has placed on record the decision of the has placed on record the following cases:

(i) ***State of Assam and Others vs. Gita Rani Kalita and Another*** reported in ***2017 2 GLT 1190***.

(ii) ***Union of India and Another vs. Poly Product (M/S) and Another*** reported in ***2017 1 GLT 219***.

(iii) ***ICICI Lombard General Insurance Co. Ltd. vs. Rup Nath Brahma Choudhury and Another*** reported in ***(2017) 2 SCC***

2 GLT 487.

(iv) ***P.K. Ramachandran vs. State of Kerala and Another*** reported in ***(1997) 7 SCC 556***.

(v) ***Post Master General and Others vs. Living Media India Limited and Another*** reported in ***(2012) 3 SCC 563***.

(vi) ***Ikrar Ahmed vs. Shiv Devi and Another*** reported in ***2018 SCC Online Allahabad 5950***.

(vii) ***Union of India and Others vs. Tata Yodogawa Limited and Another*** reported in ***(2015) 9 SCC 102***.

(viii) ***Commissioner of Wealth Tax, Bombay vs. Amateur Riders Club, Bombay*** reported in ***1994 Suppl.2 SCC 603***.

(ix) ***Sitaram Ramachandran etc. vs. M.N. Nagarshana and Others*** reported in ***AIR 1960 SC 260***.

5. It is seen from the record that Respondent Nos 2 and 3, despite due service of notice, have not entered appearance.

6. Upon hearing the learned counsel and from the record, it is noticed that the sum and substance of the explanation offered for condonation of delay is that the impugned Judgment and Order dated 24.07.2023 was received by the Divisional Office of the Appellant at Dimapur on 28.09.2023, and the entire file was forwarded, as per procedure, to the Regional Office at Guwahati, Assam. Thereafter, on 08.11.2023,

instruction was given to their empaneled counsel to file an appeal who failed to take action.

7. A copy of the Communication dated 08.11.2023 written by the Deputy Manager, Oriental Insurance Company Limited, addressed to their counsel at Dimapur is enclosed to the application and from a reading of the said Communication, it can be seen that an instruction was given to the learned counsel to file an appeal in the Kohima Bench against the aforesaid Judgment and Order dated 24.07.2023. Thereafter, Communication dated 04.11.2025 written from the Legal Department, Dimapur Unit of the Oriental Insurance Company addressed to their counsel, indicates that they have received execution order dated 14.10.2025 arising out of the Judgment and order Dated 24.07.2023 and they reminded the learned counsel to file an appeal against the aforesaid Judgment and Award and it was further requested that immediate necessary action should be taken by the learned counsel.

8. By letter dated 27.1.2026 issued by the Appellant/Applicant Company, it was mentioned that though their earlier counsel was instructed on 08.11.2023 to file appeal before the Gauhati High Court Kohima Bench, but they have not received any response from him in spite of several communications sent to him through email and telephone. In order to protect the interest of the society, they had deputed their panel advocate to take over the aforesaid case and henceforth, the appeal before the Gauhati High Court Kohima against the impugned Judgment dated 24.0720.23 is to be taken up by the said counsel.

9. Upon the entrustment by the company to file an appeal, the learned counsel submitted that she obtained the relevant records and the hard copy of the files on 29.01.2026 and prepared the appeal, which could ultimately be filed on 02.03.2026.According to the learned counsel, after the case was entrusted to her, there is no inordinate delay and that she has taken due diligence towards compliance of the instruction given by the appellant insurance company to file an appeal. In respect of the previous counsel, the learned counsel submitted that the company and the aforesaid counsel had been were in a good working relationship and the learned counsel had handled many of the cases of the Appellant efficiently. It was in good faith that the company was under the *bonafide* impression that he would be filing the appeal and for this reason, they were under the presumption that the appeal was filed and waited for a long period until the execution petition was received by them, and which in a way affirmed that the appeal was not filed by their learned counsel as instructed, way back on 08.11.2023.

10. As stated before, the main contention of the counsel for the Applicant is that the instruction given to the previous counsel of the Appellant/Insurance Company was not complied with by the previous counsel, and this has caused the delay. In a way, the delay has been attributed to the inaction on the part of the counsel to file the appeal. However, interestingly, upon going through the communications which are enclosed to the application, it is seen that in spite of the fact that on 08.11.2023, instruction was given to the previous counsel to file an appeal, a decision to engage another counsel was taken only in the month of January, 2026, and in the same Letter, it was written that in spite of

many communications through telephones and through written mails, no response was received. Therefore, it is apparent that from November, 2023 up to 27th January, 2026, the Appellant/Respondent Company has also not taken active steps diligently to make sure that an appeal was filed against the Judgment and Award.

11. Accordingly, the submission of the learned counsel for the Respondent that the Appellant Company took up the matter actively only after receiving the Execution Orders from the learned Motor Accident Claims Tribunal appears to be creditworthy and reliable. And, the blame given only to the learned previous counsel for the Appellant Company does not also appear to be the only explanation, inasmuch as the inaction on the part of the Appellant/Insurance Company, for the period from 08.11.2023 to 27.01.2026, have not received any proper explanation. Therefore, the lethargy on the part of the Appellant/Applicant Insurance Company to actively pursue the matter is clearly exhibited from the conduct which are contained in the Communication as well as the content of their own Communication itself.

12. It is no doubt true that the expression 'sufficient cause' should receive liberal construction. However, at the same time, the Supreme Court, while taking serious note of the casual manner in which the Government Departments are functioning in response to the Limitation Act, in the case of ***Postmaster General and Another (Supra)*** has observed as below:-

"*The claim on account of impersonal machinery and inherited*

bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The Limitation Act undoubtedly binds everybody including the government.

In our view, it is the right time to inform all government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swerved for the benefit of a few."

13. Once again, in the case of ***Maniben Devraj Shah vs. Municipal Corporation Brihan Mumbai*** reported in ***2012 SC 1629***, it was observed by the Hon'ble Supreme Court, '*That in cases involving the State and its agencies/instrumentalities, the court can take note of the fact that sufficient time is taken in the decision-making process, but no premium can be given for total lethargy or utter negligence on the part of the officers of the State and/or all its agencies/instrumentalities and the applications filed by them for condonation of delay cannot be allowed as a matter of course by accepting the plea that dismissal of the matter on the*

ground of bar of limitation would cause injury to the public interest'.

14. In the case at hand, what can be accepted from the Communication which are highlighted in the petition and supported by document is that, upon receipt of the impugned Judgment and Order dated 24.07.2023, on 08.11.2023 instruction was given by the Applicant to their counsel to file an appeal. Thereafter, there was no action on the part of the Appellant to ensure that the decision was implemented till 27.01.2026. There is no explanation at all as to what action was taken by the Appellant/Insurance Company towards the filing of the appeal during the period from 08.11.2023 to 27.01.2026.

15. The long absence of any action on the part of the Applicant/Insurance Company cannot but be termed as lethargy and in by and no stretch of interpretation can it be regarded as sufficient cause or exercise of due diligence in the pursuance of the decision taken by the Applicant/Insurance Company to file an appeal.

16. To the considered view of this Court, the explanation offered for the explanation of delay from the time decision was taken to file an appeal, i.e. 08.11.2023 to 27.01.2026, when the case was entrusted to another counsel, cannot but be regarded as sketchy, vague, incomplete, and cannot be termed as sufficient and diligent conduct on the part of the Applicant in taking the test by the view of normal prudent human being.

17. In, view thereof, this Court does not find any sufficient ground to condone the delay of 949/952 (Nine Hundred and Forty Nine/Nine

Hundred and Fifty Two) days in filing the appeal.

18. Accordingly, the condonation of delay application stands rejected and disposed of.

JUDGE

Comparing Assistant