
(2014) 01 OHC CK 0069

In the Orissa High Court

Case No : Misc. Case No. 1444 of 2013 (Arising out of MACA No. 700 of 2013)

National Insurance Company Ltd.

APPELLANT

Vs

Prasanna Routray and Another

RESPONDENT

Date of Decision : 30-01-2014

Acts Referred:

Limitation Act, 1963 — Section 5
Motor Vehicles Act, 1988 — Section 173

Citation : (2014) 1 OLR 580

Hon'ble Judges : B.R. Sarangi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Dr. B.R. Sarangi, J.—This application has been filed by the Insurance Company for condonation of delay of 211 days in preferring the appeal.

2. The appellant-insurance Company has filed this appeal assailing the award dated 19.10.2012 passed by the learned 2nd M.A.C.T., Cuttack in Misc. Case No. 1207 of 2002.

3. It is found that the award was passed on dated 19.10.2012 and the date of valid presentation of the appeal was 16.08.2013. Therefore, the total period occupied is 301 days and after excluding the limitation period of 90 days, there is a delay of 211 days. For that purpose, the above application has been filed u/s 5 of the Limitation Act for condonation of delay indicating "sufficient cause". In paragraph 3 of the application, the appellant-petitioner has explained the delay, which is as follows:

3. That the aforesaid appeal has been filed after expiry of the period of limitation and there is delay of about 211 days in filing of the appeal. There has been delay in filing the aforesaid appeal as the appellant the Insurance Company's local office after receiving the certified copy order sent the file to its Regional Office at Bhubaneswar, wherein the matter was scrutinized and after obtaining opinion

from the appropriate authority, the matter was sent to the Orissa Legal Cell at Cuttack for filing of appeal. The said legal cell thereafter, took steps to engage its lawyer after engagement of the panel advocate the appeal could only be filed on 16.08.2013.

It is submitted that the appellant-Insurance Company is a Public Sector Undertaking and before filing of an appeal opinion from several quarters is sought for. In the instant case, the delay in filing the appeal is not deliberate and since the Appellant-Insurance Company had to obtain opinion from different quarters and from its higher officers, the appeal could not be filed within time.

4. On perusal of the reasons assigned for delay caused, the delay has neither been explained nor any sufficient cause has been shown for such delay, rather the contention has been raised with regard to the merits of the case explaining the "sufficient cause" for preferring this appeal for condonation of delay of 211 days.

5. This Court in a similar matter in M.A.C.A. No. 531 of 2010 disposed of on 8.1.2014 relying upon the judgments of the apex Court as well as this Court has held that by any stretch of imagination it cannot be said to be a reasonable explanation or proper explanation so as to constitute sufficient cause within the meaning of second proviso to Section 173 of M.V. Act. It is made clear that while deciding whether in a particular matter sufficient cause is established or not definitely each case depends upon the facts and circumstances of that case and while giving the explanation so as to constitute sufficient cause be that an Insurance Company, a Corporation, a Government body or any other Quasi Governmental body, officers who sworn the affidavits must be careful and cautious in explaining the reasons and they are not expected to file affidavits in a casual manner taking vague allegations. In such cases, definitely it cannot be said that such vague reasons may attract the expression "sufficient cause" within the meaning of the second proviso to Section 173 of M.V. Act. It is suffice to state that each case depends upon the facts and circumstances of the particular specified case and no elaborate guidelines exhaustively can be laid down in this regard. As far as the present case in hand is concerned, in the light of the nature of the reason which had been specified in the affidavit filed in support of the application for condonation of delay, this Court is not satisfied with the reasons assigned as it does not constitute the expression "sufficient cause" within the meaning of second proviso to Section 173 of M.V. Act. Therefore, the application filed u/s 5 of the Limitation Act is misconceived one in view of the fact that when special statute for filing appeal prescribing limitation period is available, general provision of the Limitation Act is not applicable.

6. For the reasons stated above, the petition filed by the appellant for condonation of delay of 211 days is dismissed. Accordingly, the appeal filed by the appellant is dismissed being barred by time. The appellant is granted two months time for making deposit of the awarded amount, if the appellant/ Insurance Company is so advised. The statutory deposit made by the Insurance

Company be refunded to the learned Counsel for the appellant on proper identification.