
(2015) 06 SIK CK 0018

In the Sikkim High Court

Case No : C.M. Appl. No. 91 of 2014 in MAC Appeal No. 08 of 2015

The Branch Manager, National Insurance Co. Ltd.

APPELLANT

Vs

Navin Cintury and Others

RESPONDENT

Date of Decision : 24-06-2015

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2015) 06 SIK CK 0018

Hon'ble Judges : Meenakshi Madan Rai, J

Bench : Single Bench

Advocate : Thupden G. Bhutia, for the Appellant; N. Rai, Senior Advocate, Bindu Gurung and Wangmu Bhutia, Advocates for the Respondent

Final Decision : Allowed

Judgement

Meenakshi Madan Rai, J.

1. In the instant Petition, Condonation of Delay of 18 days in filing the Appeal is sought by the Appellant.

2. It is the Appellant's case that the impugned Judgment/Award dated 19.12.2014 was passed by the Learned Member, Motor Accident Claims Tribunal at Namchi, in MACT Case No. 5 of 2013, copy of which was made available to the Appellant only on 11.02.2015. It is submitted that the delay in making over the certified copy of the Judgment was on account of non-payment of Court Fees by the Respondent/Claimant, although the Appellant had applied for it on 06.02.2015. Thus, the limitation period for presenting the Memo of Appeal was on or before 19.03.2015, i.e., 90 days from the date of Judgment, but it could be filed only on 07.04.2015. Hence, the delay of 18 days.

3. It is further submitted, that on receipt of the copy of the Judgment, necessary official process before filing the Appeal had to be undergone, i.e., sending the file from the Branch Office at Gangtok to the Divisional Office at Siliguri, West Bengal, which in turn sent it to the Regional Office at Kolkata and on receiving its

opinion, the file was sent back to the Divisional Office at Gangtok to prefer the Appeal. That the Appellant was prevented by sufficient cause for not preferring the Appeal within the statutory period of limitation of 90 days, hence, the prayer for Condonation of Delay.

4. Learned Counsel for the Respondent No. 1, objected to the prayer for Condonation of Delay, inter alia, on grounds that the day to day reasons for delay have not been put forth in the Application/Petition seeking condonation, neither has the delay been satisfactorily explained, hence, the Application/Petition be dismissed.

5. Having heard the parties, I have given due consideration to their submissions.

6. Section 173 of the Motor Vehicles Act, 1988, envisages that the Appeal should be filed within 90 days from the date of award. Admittedly, the award was passed on 19.12.2014, but evidently a copy of the same was made over to the Appellant on 11.02.2015 only after payment of Court Fees by the Respondent No. 1. In my considered opinion, the fault for delayed supply of copy of the impugned Judgment does not lie with the Appellant. The Respondent No. 1 has failed to make out any reason as to why they failed to pay the Court Fees on time. It was also explained by Learned Counsel for the Appellant that copies of the Judgment/Award of the Motor Accident Claims Tribunal are not made over to the Opposite Party until the requisite Court Fees are paid by the Respondents/Claimants.

7. In the facts and circumstances given hereinabove, and considering that copy of the Judgment was made available to the Appellant only on 11.02.2015, I find that the Appellant was prevented by sufficient cause from preferring the Appeal on time.

8. The Application is accordingly allowed, delay condoned.

9. Before parting with the matter, it is ordered that, henceforth, the Motor Accident Claims Tribunals in the different districts of Sikkim, shall ensure that a copy of the Judgment and Award is made over to the Insurance Company as and when sought for on following the procedure established, should the Insurance Company submit that the same is for the purposes of filing an Appeal. This is to ensure that no prejudice is caused to the Insurance Company as regards the period of limitation, should they seek to file an Appeal.

10. Civil Misc. Application No. 91/2015 stands disposed of accordingly.

11. Copy of this Order be made over to the Motor Accident Claims Tribunals East, North, South and West Sikkim, for compliance.