

(2024) 02 OHC CK 0017
In the Orissa High Court
Case No : R.S.A. No.475 Of 2007

United India Insurance Co. Ltd Vs Debabrata Pattanaik ?

Date of Decision : 02-02-2024

Acts Referred:

Limitation Act, 1973 — Section 5

Citation : (2024) 02 OHC CK 0017

Hon'ble Judges : A.C. Behera, J

Bench : Single Bench

Advocate : B. Dasmohapatra

Final Decision : Disposed Of

Judgement

A.C. Behera, J

R.S.A. No.475 of 2007 & Misc. Case No.194 of 2008

7. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. This Misc. Case has been filed by the appellant under Section 5 of the Indian Limitation Act, 1973 praying for condonation of delay of nine days in preferring the appeal on the ground that, due to some misunderstandings about the computation of the limitation period on the basis of the certified copy of the judgment of the 1st appellate court, there has been nine days delay in preferring the 2nd appeal. Such delay is not deliberate or intentional, for which, the same is required to be condoned. Because, the appellant has a good case in his favour in the 2nd appeal.

3. It is settled propositions of law that, as per the decision of the Apex Court in the case of Sumiti Bai & others vrs. Paras Finance Co. & others (S.C.) in Appeal (Civil) No.117 of 2001 (Para No.8) (decided on 04.10.2007) that,

“The Civil Procedure Code is really rules of natural justice, which are set out in great and elaborate detail. Its purpose is to enable both parties to get hearing.”

4. Though notice of this Misc. Case has been made sufficient against the Opposite Party, but none appeared on his behalf.

5. The petition of the appellant/petitioner has been controverted, for which, applying the principles of law enunciated by the above decision of the Apex Court, the Misc. Case No.194 of 2008 filed on behalf of the appellant/petitioner is considered liberally for condonation of nine days of delay in preferring the appeal. Therefore, nine days delay in preferring the Appeal is condoned. The Misc. Case is allowed and disposed finally.

6. The appeal be listed on 04.04.2024 on hearing on the point of admission.

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