

MC 1137/2015

BEFORE

THE HON'BLE MR. JUSTICE N CHAUDHURY

Heard Mr. B Pushilal, learned counsel for the petitioner. None appears for the opposite party although notices were duly served on them and service on the opposite party was accepted by this court on 15.7.2015.

This is an application under Section 5 of the Limitation Act praying for condoning delay of 27 days delay in preferring the appeal under Section 173 of the MV Act, 1988 against the impugned judgment and award dated 3.12.2014 passed by the learned Member, MACT, Biswanath Chariali, Sonitpur in MAC case No. 69 of 2011.

In para-2 of the application, it was stated that judgment was passed on 3.12.2014 and seven days thereafter on 10.12.2014, application for certified copy was filed. On the following day, the requisite stamps were notified and the petitioner submitted the stamp on the same day. Thereafter, copy was ready on 12.12.2014 and so the appeal could have been preferred on or before 7.3.2015.

In para-3 of this application, it is stated that petitioner is a poor lady and could not collect necessary finance for the purpose of coming to Guwahati to engage a lawyer for preferring the appeal. Besides, her son was also sick and she had to attend him. Ultimately, she could arrange money and then engaged a counsel at Guwahati on 8.3.2015 and then the appeal was prepared and presented the same on 2.4.2015 but in the meantime, a delay of 27 days has been caused which according to the appellant is not due to laches and negligence but due to unavoidable circumstance.

No affidavit-in-opposition has been filed by the opposite party and no one has put up appearance on behalf of them.

Considering the averments made in the application about financial weakness and other handicapped of the petitioner, this court is of the view that petitioner has succeeded to make out sufficient cause within the meaning of Section 5 of the Limitation Act and proviso to Section 173 of the MV Act, 1988.

Accordingly, prayer for condoning the delay is allowed and delay of 27 days in preferring the appeal is hereby condoned.

Misc. case stands allowed.