



2026:CGHC:26087

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCC No. 553 of 2026

1 - Smt. Lalmuni Yadav W/o Late Rajnarayan Yadav Aged About 55 Years Resident Of Pahadi Chowk Near Ambedkar Chowk P.S. Gudhiyari Raipur Tehsil And District- Raipur (C.G.)

2 - Ms. Sunita Yadav D/o Late Rajnarayan Yadav Aged About 29 Years Resident Of Pahadi Chowk Near Ambedkar Chowk P.S. Gudhiyari Raipur Tehsil And District- Raipur (C.G.)

3 - Amit Kumar Yadav S/o Late Rajnarayan Yadav Aged About 25 Years Resident Of Pahadi Chowk Near Ambedkar Chowk P.S. Gudhiyari Raipur Tehsil And District- Raipur (C.G.)

4 - Ms. Kavita Yadav D/o Late Rajnarayan Yadav Aged About 21 Years Resident Of Pahadi Chowk Near Ambedkar Chowk P.S. Gudhiyari Raipur Tehsil And District- Raipur (C.G.)

5 - Ms. Anjali Yadav D/o Late Rajnarayan Yadav Aged About 21 Years Resident Of Pahadi Chowk Near Ambedkar Chowk P.S. Gudhiyari Raipur Tehsil And District- Raipur (C.G.)

6 - Minor Dipu Yadav S/o Late Rajnarayan Yadav Aged About 14 Years (The Applicant No.6 Being Through Is Represented Through Her Mother I.E Applicant No.1 Smt Lalmuni Yadav) Resident Of Pahadi Chowk Near Ambedkar Chowk P.S. Gudhiyari Raipur Tehsil And District- Raipur (C.G.)

... Applicants

versus

- 1** - Punnulal Upadhyay S/o Makhan Lal Upadhyay Resident Of Village Deori Khurd P.S. Torwa District- Bilaspur (C.G.) (Driver Of Vehicle C G 10 E 4731)
- 2** - Ashok Agrawal S/o Late Shri Lakhan Lal Agrawal Address- Karbala Road P.S. Kotwali, Bilaspur (C.G.) (Owner Of Vehicle C G 10 E 4731)
- 3** - The New India Assurance Company Ltd Divisional Office Korba Road Bilaspur (C.G.) (Insurer Of Vehicle C G 10 E 4731)

... Respondents

(Cause title, as taken from CIS)

For Applicants	:	Mr. Palash Agrawal, Advocate
----------------	---	------------------------------

(Hon'ble Shri Justice Naresh Kumar Chandravanshi)

Order on Board

24/06/2026

1. Heard on I.A No.01/2026, application under Section 5 of the Limitation Act for condonation of delay in filing the restoration application.
2. Learned counsel for the applicants submits that MAC No.823/2016 was filed by the applicants herein seeking compensation under Section 166 of the Motor Vehicles Act. The case was listed on 30.06.2016, when two weeks' time was granted to remove the default vide peremptory order. However, the default could not be removed within the stipulated period and, consequently, the case was dismissed on 03.08.2016 in compliance with the said peremptory order. He further submits that the applicants are poor and illiterate persons. They had engaged counsel through the advocates representing them before the lower Court, but the counsel representing them before the High Court did not inform them about the status of the case. Owing to their lack of education and knowledge of legal procedures and court formalities, the applicants were entirely dependent upon others for pursuing their case. Due to

their financial constraints, illiteracy and the absence of proper legal guidance, they could not take timely steps for filing the present application.

3. Learned counsel further submits that since the counsel engaged before this Court did not inform about the status of the case to the applicants for a long period, they subsequently approached another counsel to ascertain the status of the matter. It was only then that they came to know that their case has been dismissed for non-compliance with the peremptory order. He also submits that the delay occurred in filing instant MCC is *bona fide*. Hence, he prays that delay of 3558 days may be condoned by allowing the instant MCC and MAC No.823/2016 may be restored to its original number.
4. The Honble Supreme Court in the matter of ***Basawaraj and Anr. vs. Special Land Acquisition Officer***, (2013) 14 SCC 81 has held that the discretion to condone the delay has to be exercised judiciously based upon the facts and circumstances of each case. The expression 'sufficient cause' as occurring in Section 5 of the Limitation Act cannot be liberally interpreted if negligence, inaction or lack of bona fide is writ large. It was also observed that even though limitation may harshly affect rights of the parties but it has to be applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds.
5. Further, in the case of ***Dwarika Prasad (D) through Lrs. vs. Prithvi Raj Singh***, (2024) SCC OnLine SC 3828, the Hon'ble Apex Court has held as under:-

“9.It is well settled that Courts should not

shut out cases on mere technicalities but rather afford opportunity to both sides and thrash out the matter on merits. Further, we cannot let the party suffer due to negligent or fault committed by their counsel. This principle has been enunciated by this court in the case of Rafiq v Munshilal, (1981) 2 SCC 788, quoted as follows :-

"3. The disturbing feature of the case is that under our present their advocates, the obligation of the parties is to select his adversary legal system where the parties generally appear through advocate, brief him. pay the fees demanded by him and then trust the learned Advocate to do the rest of the things. The party may be a villager or may belong to a rural area and may have no knowledge of the court's procedure. After engaging a lawyer, the party may a villager or may belong to a rural area and may have no knowledge remain supremely confident that the lawyer will look after his interest. At the time of the hearing of the appeal, the personal appearance of the party is not only not required but hardly useful. Therefore, the party having done everything in his power to effectively participate in the proceedings can rest assured that he has neither to go to the High Court to inquire as to what is happening in the High Court with regard to his appeal nor is he to act as a watchdog of the advocate that the latter appears in the matter when it is listed. It is no part of his job Mr AK Sanghi stated that a practice has grown up in the High Court of Allahabad amongst the lawyers that they remain absent when they do not like a particular Bench. Maybe, we do not know, he is

better informed in this matter Ignorance in this behalf is our bliss. Even if we do not put our seal of imprimatur on the alleged practice by dismissing this matter which may discourage such a tendency, would it not bring justice delivery system into disrepute What is the fault of the party who having done everything in his power expected of him would suffer because of the default of his advocate If we reject this appeal, as Mr A.K. Sanghi invited us to do, the only one who would suffer would not be the lawyer who did not appear but the party whose interest he represented. The problem that agitates us is whether it is proper that the party should suffer for the inaction, deliberate omission, or misdemeanour of his agent. The answer obviously is in the negative. Maybe that the learned Advocate absented himself deliberately or intentionally We have no material for ascertaining that aspect of the matter. We say nothing more on that aspect of the matter. However, we cannot be a party to an innocent party suffering injustice merely because his chosen advocate defaulted. Therefore, we allow this appeal, set aside the order of the High Court both dismissing the appeal and refusing to recall that order....”

6. The other decision relied upon in this regard is the case of ***Imrat Lal & Ors. vs. Land Acquisition Collector & Ors.***, (2014) 14 SCC 133. In this case also the matter was regarding determination of compensation for the acquired land and there was a delay of 1110 days in filing the appeal for enhancement of compensation. Despite findings that no sufficient cause was shown in the application for condoning the delay,

this Court condoned the delay in filing the appeal as a large number of similarly situate persons have been granted relief by this Court.

7. In the present case, the applicants are poor and illiterate persons who were dependent upon their counsel for pursuing the matter before this Court. The explanation furnished by them indicates that they remained unaware of the dismissal of MAC No.823/2016 and came to know about the same only when they contacted another counsel. There is nothing on record to suggest that the delay was deliberate or actuated by mala fides.
8. Having considered the reasons mentioned in the application, which is well supported by an affidavit and further considering the dictum of the Hon'ble Apex Court that a litigant ought not to be penalized for the fault, negligence or inaction of his counsel, and in order to advance substantial justice, this Court finds sufficient cause for condoning the delay.
9. Accordingly, the present MCC is **allowed**. The delay of 3558 days in filing the present MCC is condoned. The Registry is directed to restore MAC No.823/2016 {Smt. Lalmuni Yadav and Ors. vs. Punnu Lal Upadhyay and Ors.} in its original number.

Sd/-
(Naresh Kumar Chandravanshi)
Judge