HIGH COURT OF SIKKIM
Record of Proceedings

I.A. No.01 of 2024 in MAC App./132/2024 (Filing No.)

THE BRANCH MANAGER, APPLICANT
HDFC ERGO GENERAL INSURANCE COMPANY LIMITED

VERSUS

SHANTI RAI AND OTHERS RESPONDENTS

Date: 07.03.2025

CORAM:

THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

For Applicant Mr. Rahul Rathi, Advocate.

For Respondents
R-1 to R-5 Mr. Tarun Choudhary, Advocate (*through VC*).

R-6 Mr. Kumar Sharma, Advocate (*through VC*).

R-7 None present.

ORDER

None appears for Respondent No.7.

Records reveal that the Notice issued to Respondent No.7 has been "delivered".

The records of the Learned Motor Accidents Claims Tribunal at Namchi, Sikkim (hereinafter, the "MACT"), with regard to MACT Case No.08 of 2020 and MACT (Execution) Case No.03 of 2023 have been received from the concerned Learned MACT.

The challenge in the Appeal by Learned Counsel for the Applicant is that the Applicant-Company has no liability in the instant matter.

I.A. No.01 of 2024 is an application under Section 173(1) of the Motor Vehicles Act, 1988, filed by the Applicant seeking condonation of 370 days' delay in filing the instant Appeal.

I have perused the Orders of the Learned MACT in MACT (Execution) Case No.03 of 2023. The Orders reveal that the Judgment Debtor was absent throughout the proceedings and in fact Notice was never served upon the Judgment Debtor and the Learned MACT proceeded to attached a sum of ₹ 40,53,380/- (Rupees forty lakhs, fifty three thousand, three hundred and eighty) only, from the HDFC account of the Judgment Debtor without service of Notice. It is admitted by Learned Counsel for the Respondents No.1 to 5 that although the Counsel for the Applicant-Company had in fact entered appearance before the Learned MACT but the same was not recorded in the Orders

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of the Learned MACT. Having considered the submissions, it is evident that this Court can rely only on the written Orders of the Learned MACT and not what transpired before it when the same have not been recorded in the Orders of the Learned MACT. In light of the above circumstances, the I.A. *supra* seeking condonation of delay is required to be heard.

Counsel for the Respondent No.6 verbally seeks time for the same.

Considered.

List on 17-04-2025 as found convenient by the parties.

Judge
07.03.2025

ds/sdl