

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**(Civil Miscellaneous Appellate Jurisdiction)**  
**M.A. No. 164 of 2018**

.....  
Damodar Yadav ..... Appellant  
**Versus**  
Vikash Jain & Another ..... Respondents

**CORAM: HON'BLE MR. JUSTICE KAILASH PRASAD DEO**  
**(Through : Video Conferencing)**

.....  
For the Appellant : Mr. Lukesh Kumar, Advocate.  
For the Respondents :

.....  
**05/05.04.2021.**

Heard, learned counsel for the appellant, Mr. Lukesh Kumar.

Learned counsel for the appellant has submitted that the Injured Damodar Yadav has preferred this appeal against the judgment dated 16.11.2017 passed by learned District Judge-IX-cum-M.A.C.T., Dhanbad in Title (M.V.) Suit No. 234/2010, whereby the claim application of the applicant has been dismissed considering that the claimant / applicant himself responsible for accident and as such, claim under Section 163 (A) of the Motor Vehicles Act on structured formula basis is not at all maintainable and the claim made by the claimant / applicant is liable to be dismissed.

Learned counsel for the appellant has submitted that admittedly Damodar Yadav was driver of the truck bearing registration no. WB-23B-5588 which dashed a standing trailer bearing registration no. NL-01A-9384 on 03.01.2009 (mid-night) at about 3:00 A.M. within Topchanchi P.S., because of some technical difficulties as submitted by P.W.-1 Damodar Yadav in his evidence before the learned Tribunal, as such, the accident was beyond his control, for which, he suffered damage of both of his legs, knee and chest, and he remained under treatment for quite a long time, but the learned Tribunal has rejected the claim application.

Learned counsel for the appellant has further submitted that there is delay of 21 days in preferring the appeal against the impugned judgment and for condonation of same, I.A. No. 845/2020 has been preferred, as such, notice may be issued to the Oriental Insurance Company Limited, under both process, i.e. under

registered cover with A/D as well as under ordinary process, in both main memo of appeal as well as in limitation matter.

Considering the same, appellant is directed to serve two copies of memo of appeal as well as limitation petition upon learned counsel, Mr. Manish Kumar, who normally appears on behalf of Oriental Insurance Company Limited by tomorrow i.e. by 06.04.2021.

Put up this case when other appeals of injured-claimant pending before this Court are listed.

**(Kailash Prasad Deo, J.)**

Sunil/-