

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Reserve: May, 25, 2010
Date of Order: June 04, 2010

+ CM 11722 of 2009 in MAC APP 402/2009

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04.06.2010

National Insurance Co. Ltd.

...Appellant

Through: Mr. Pankaj Seth, Advocate

Versus

Ranjita Ghosh & Ors.

...Respondents

Through: Mr. R.D. Tyagi and Mr. Daleep Mishra, Advocates
for R-1 to 5

AND

+ CM 12079 of 2009 in MAC APP 410/2009

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04.06.2010

National Insurance Co. Ltd.

...Appellant

Through: Mr. Pankaj Seth, Advocate

Versus

Bhaskar & Ors.

...Respondents

Through: Mr. G. Tushar Rao, Advocate

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

ORDER

1. By this order, I shall dispose of above applications under Section 5 of the Limitation Act for condonation of delay made by the appellants along with appeals seeking condonation of delay of 169 days.

2. The grounds, as given in the applications by appellants/insurance company are that the insurance company was maintaining a panel of advocates in conducting its cases and each one of the panel advocate is supposed to send his legal opinion to the insurance company on the merits of the judgment/ award passed by the Tribunal in the case handled by him. In the present case, the panel advocate had not forwarded his legal opinion on the order passed by the Tribunal, soon after passing the award and this opinion of the advocate was received much after the passing of award and once the opinion was received, the appeal was filed by one of the panel advocates without further delay. The delay of 169 days in filing the appeal occurred because of non-sending of opinion by the panel advocate in time.

3. The applications in fact disclose no ground for condonation of delay. Inaction, sluggishness or casualness of the appellants or any of the agents of appellants is no ground for condonation of delay. The plea that since the panel advocate of the insurance company did not send opinion in time the

delay of 169 days in filing the appeals be condoned is contrary to provisions of Section 5 of Limitation Act. Rather it is a mockery of the provisions of Limitation Act. The delay can be condoned only under those circumstances where the litigant has been diligent but despite diligence, there were such intervening circumstances which were not within his control and he could not file appeal in time or he had some such reasonable and plausible grounds which prevented him from filing the appeal in time. Non-furnishing of opinion by the panel advocate or not seeking opinion by the insurance company/appellant in time from its Advocate is no ground for condonation of delay. I find no force in the applications for condonation of delay. The applications as well as the appeals are hereby dismissed.

June 04, 2010
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SHIV NARAYAN DHINGRA J.