

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.639 OF 2015
IN
FIRST APPEAL (ST.) NO.3710 OF 2015

The New India Assurance Company Limited ...Applicant
vs.
Parshuram Maruti Sawant and Others ...Respondents

Mr. Ramesh Cheulkar i/b. Ms. Poonam Mital, for the Applicant.

CORAM : K.K. TATED, J.

4TH MARCH 2015

P.C. :-

Heard learned counsel for the Applicant.

2] This application preferred by The New India Assurance-Company for condonation of two years and five days delay in filing the First Appeal challenging the judgment and award dated 07-11-2012 passed by the M.A.C.T., Mumbai in Motor Accident Claim Application No. 2527 of 2005 holding that the Respondents-claimants are entitled the sum of Rs. 1,10,000/- with 7.5% p.a interest by way of compensation.

3] The learned counsel for the Applicant submits that the Applicant immediately applied for certified copy on 23-04-2014. The same was ready for delivery on 03-07-2014. Thereafter they collected the certified copy on 10-07-2014 and immediately filed First Appeal in this Court on 10-02-2015. The learned counsel for the Applicant submits that the Advocate who appeared on behalf of Applicant, by mistake forwarded the certified copy for preferring the present First Appeal to other Divisional Office of the applicants. He further submits that Applicant-Company has to go with the lengthy procedure for filing matters in the Court as the file has to go from various departments and then to Head Office. As and when Head Office approves the proposal for filing the First Appeal, then only they can file. In this process, delay of two years caused.

4] The learned counsel for the Applicant relies on para 3 and 4 of Civil Application in respect of above contention. Paragraph Nos. 3 and 4 read thus:

“Para 3 : The Appellants state that as the Appellants Advocate who was appearing for the Appellants in the lower Court to inadvertence had send the Judgment certified copy to the other D.O of the Appellants due to over sight. The Appellants further submit that after 2 months it was received back by the lower Court advocate and as the original proceeding were not traceable in the lower Court after passing of Judgment there was a delay in submitting the Certified Copy of the Judgment to the Appellants.

Para 4 : The Appellants Company has to go through lengthy procedure for filing matters in the Court as the file has to go through various departments and goes to the Regional Office and then to the Head Office and then only after it is approved by the Head Office the approval is given by the administrative Department and then only sanction is done by the Legal Manager of the said Company. The whole process takes a long time the said appeal could not be filed in time. Thus, there is a delay of 2 years 5 days in filing an Appeal.”

5] The learned counsel for the Applicant submits that the Tribunal awarded compensation to the Respondents without considering the evidence on record. He submits that Applicant have good chance of success in the matter. He submits that if the delay is not condoned, irreparable loss, harm and injury will be caused to the Applicant. On the basis of this submission, the learned counsel for the Applicant submits that the delay in preferring the First Appeal be condoned.

6] I heard the learned counsel for the Applicant at length. In the present proceeding, the Tribunal passed the judgment and award dated 07-11-2012 and thereafter the Applicant applied for certified copy on 23-04-2014. There is no explanation in the Civil Application why the office of the Applicant took more than one and half year in applying for certified copy. Even the Applicant has not explained when the Regional Office received the copy from the advocate who

had appeared in the trial Court. Even the Applicant has not explained when the approval was forwarded to the Regional Office and then Head Office. The Applicant has not explained when the Head Office has taken decision to file First Appeal in this Court. There is no explanation when the papers and proceeding received by the Advocate for filing the First Appeal in this Court.

7] Our High Court in the matter of **Laxman Divekar Vs. State of Maharashtra 1998 (1) Mh.L.J 745** held that Court has no power to arbitrarily condone the delay in the name of advancing substantial justice just because the applicant happen to be a Corporation.

8] The Apex Court in the matter of **Damodar Pillai Vs. South Indian Bank Ltd, 2005(5) All.M.R. 961 (SC)** held that hardship or injustice is not a ground for extending the period of limitation.

9] The Apex Court in the matter of **Pundlik Jalam Patil Vs. Ex.Engg. Jalgaon Medium Project and Ors, 2008(6) BCR 513** held that unless and until sufficient cause is shown, inordinate delay should not be condoned.

10] The Apex Court in the matter of **Oriental Aroma Chemical**

Industries Limited Vs. Gujarat Industrial Development Corporation reported in 2010 (5) SCC 459, held that in the absence of sufficient cause, Court should not condone the delay.

11] The Apex Court in the case of **B. Madhuri Gaud Vs. B. Damodar Reddy, 2012 (12) SCC 693** held that if sufficient cause is not shown, delay should not be condoned.

12] Recently, the Apex Court in the matter of Esha Bhattacharjee Vs. Managing Committee of **Raghunathpur Nafar Academy 2013(12) S.C 450** held that if sufficient cause is not shown, application for condonation of delay needs to be rejected.

13] Considering the submissions made by the learned counsel for the Applicant and the law laid down by the Apex Court as stated hereinabove, I do not find any reason to condone the inordinate delay of more than two years in filing the First Appeal.

14] Hence, Civil Application stands rejected.

15] In view of disposal of Civil Application No. 639 of 2015 for condonation of delay nothing survives in the First Appeal(St.) No.

3710 OF 2015. Hence, the same stands rejected.

16] The learned counsel for the Applicant submits that at the time of filing the First Appeal, they have deposited the sum of Rs. 25,000/- in the Registry.

17] Registry is directed to transfer the said amount with accrued interest if any, to the office of Motor Accident Claim Tribunal, Mumbai in Motor Accident Claim Application No. 2527 of 2005 as early as possible.

(K.K.TATED J.)