

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 1830 OF 2014
IN
FIRST APPEAL (STAMP) NO. 28099 OF 2013**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. S.S. Vidyarthi, a/w Deepita Putta, for
Applicant.

CORAM : K.K.TATED, J.
DATED : 27/02/2015

1. Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.

2. This Application is preferred by the Insurance Company for condonation of delay 1 year 41 days delay in filing the First Appeal challenging the Judgment and Award dated 19th December, 2011 passed by Motor Accident Claims Tribunal, Mumbai in Application No. 3122 of 1996, by which the Tribunal awarded sum of Rs.46,770/- with 7.5% p.a. to the Respondent-Claimant by way of compensation.

3. The learned counsel for Applicant submits

that they applied for certified copy on 30th December, 2011. The same was ready for delivery on 25th May, 2012. They collected the same on 5th June, 2012.

4. The learned counsel for the Applicant submits that the Office of the Applicant sought opinion of their panel Advocate in the month of July 2012. He submits that Centralized Third Party Claims Hub also applied its mind to the facts and circumstances of the present case and they also advised to file Appeal in this Court. He further submits that they appointed an investigation officer to find out whether the vehicle in question bearing No. HA-29-A-2923 was a lorry or motorcycle. He submits that in this process some time took place to take immediate decision. He further submits that after taking decision, office has to issue cheques for deposit of mandatory amount under Section 173 and Court fees infavour of their Advocates, that took some time. Hence there is delay in filing the present First Appeal.

5. He further submits that Applicant have good chance of success in the present matter. He submits that if delay is not condoned irreparable loss and injury will be caused to the Applicant.

6. I have heard learned counsel for the Applicant at length. In the present proceeding though the certified copy of impugned Judgment and Award collected by the Applicant on 5th June, 2012 they filed the present First Appeal in this Court on 26th September, 2013. This is after more than one year. The explanation given by Applicant about taking permission from several departments as stated in paragraph 3 of Civil Application could not be sufficient ground for condoning the delay.

7. 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.

8. 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.

9. 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.

10. 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.

11. The Apex Court in the matter of **Office of Chief Post Master General and Others Vs. Living Media India Ltd & Anr, 2012 All SCR 892** held that delay attributed in personal machinery and methodology, cannot be condoned in view of modern technology use.

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. 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.

14. Our High Court in the matter of **Special Land Acquisition Officer & Anr. Vs Jose Prezares De Piedade Pinto, 2006(2) Bom.C.R 773** held that delay caused due to movement of file from one table to another cannot be a reason for condonation of delay.

15. In view of the above mentioned facts and law declared by Apex court, I am of the opinion that the Applicant failed to show the sufficient cause for condonation of 1 year and 41 days delay in preferring the First Appeal. Hence the Civil Application stand rejected.

(K.K.TATED, J.)