

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

**CIVIL APPLICATION NO.2320 OF 2015
IN
FIRST APPEAL (ST). NO.28129 OF 2014
WITH
CIVIL APPLICATION NO.2321 OF 2015
WITH
FIRST APPEAL (ST). NO.28129 OF 2014**

The New India Assurance Co.Ltd. .. Applicant

Vs.

Shri Gurmit Singh s/o Natha Singh
and Anr. .. Respondents

Ms.Poonam R. Mital for the applicant

**CORAM : K.K.TATED, J.
DATED : 14/07/2015**

PC:

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

2 This appeal is preferred by Insurance Company for condonation of 2 years 257 days delay in filing First Appeal challenging the award dated 17.11.2011 passed by 6th Labour Court, Mumbai in Application (WCA) No.511/C-205 of 2004.

3 The learned counsel for the applicant submits that the respondents claimants filed Execution Application No.133/G-9/2015. Hence, there is urgency.

4 The learned counsel for the applicant submits that there is a delay on the part of the Insurance Company to file the present First Appeal in this court because they have to take decision on several levels. In support of this contention, the learned counsel for the applicant relies on paragraph 3 and 4 of the Civil Application which reads thus:

“3. The Appellants state that as the Appellants Company has to go through lengthy procedure for filing matters in the courts 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 Manger 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 257 days in filing the appeal.

4. The Appellants state and submit as their advocate in the lower court had not supplied Certified copy of the Judgment and as no papers were available to file appeal the Appellants had to ask their High Court Advocate to apply for the same and it was only in the month of July 2014 that the high court advocate was appointed to file the appeal and to apply the copy thus there is a delay

of 257 days in filing the appeal.”

5 The learned counsel for the applicant submits that in the interest of Justice, this Hon'ble Court be pleased to condone the delay in preferring the First Appeal. He submits that if delay is not condoned, irreparable loss and injury will be caused to the applicant.

6 I have heard the learned counsel for the applicant at length. It is to be noted that in the present proceeding, in an accident which occurred on 4.7.2004 respondents claimants sustained injuries. Because of that accident, claimant suffered 100% loss of earning capacity. On the date of accident he was 23 years old. He was working as a Driver on monthly wages of Rs.4000/-. On the basis of these facts, respondents claimants filed application for compensation of Rs.5,27,880/- together with interest.

7 Considering the evidence on record, 6th Labour court allowed the Claim Application filed by the claimants. In the present proceeding, 6th Labour Court passed award on 17.11.2011. Thereafter Insurance Company applied for certified copy on 21.7.2014. Same was ready on 4.8.2014. Thereafter, Insurance Company filed the present First Appeal in this court on 28.10.2014.

8 It is to be noted that applicant has not disclosed any reason why the Insurance Company took more than 2 years for applying for certified copy of award passed by 6th Labour Court. The reason given by the applicant in the present Civil Application only demonstrates difficulties. It is stated in the application they have to take decision

from several departments for filing First Appeal in this court.

9 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.

10 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.

11 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.

12 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.

13 The Apex Court in the matter of **Commissioner, Nagar Parishad, Bhilwara Vs. Labour Court, Bhilwara & Anr, 2009(3) SCC pg 525** held that while dismissing an Appeal on the ground of limitation, going into the merits of the case is not allowed.

14 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.

15 Considering the submissions made by the learned counsel for the applicant, the averments made in Civil Application and the law declared by the Apex Court, I am of the opinion that the applicant failed to show sufficient cause for condonation of more than 2 years and 257 days delay in filing First Appeal.

16 Hence, Civil Application stands rejected.

17 In view thereof, nothing survives in the First Appeal (ST). No.28129 of 2014 and Civil Application No.2321 of 2015 for stay. Same are dismissed as infructuous.

(K.K.TATED, J.)