

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

**CIVIL APPLICATION NO. 156 OF 2014
IN
FIRST APPEAL (ST.) NO. 36030 OF 2013**

Wajid Khan Nasir Khan ... Applicant.
V/s.
The Oriental Insurance Co. Ltd. & Anr. ... Respondents

Mr. V. M. Parkar for the applicant.

**CORAM : K. K. TATED, J.
DATED : 22/04/2015.**

PC.:

. Heard learned Counsel for the applicant.

2 This application is preferred by claimant for condonation of 2 years & 165 days delay in filing the First Appeal challenging the award dated 28.03.2011 passed by the Commissioner for Workmen's Compensation & Judge 2nd Labour Court at Mumbai in Application (WCA) No. 388/C-140 of 2006.

3 The learned Counsel for the applicant submits that in accident which occurred on 22.03.2006 the applicant sustained the following injuries:

- i) Blunt injury to pelvic region, fracture Rt. Ramus Pubic superior and interior,
- ii) Disrupted pubic symphysis,
- iii) Ruptured femoral vein Lt.
- iv) Lacerated wound Lt. Thigh & inguinoscrotal region.

4 The learned Counsel for the applicant submits that applicant filed application for compensation. That was dismissed by the 2nd Labour Court on 28.03.2011. He submits that on same date the applicant applied for certified copy. The same was received by the applicant on 11.05.2011. He submits that due to accommodation problem and due to serious injuries, the applicant left to his native place. He submits that for these period the applicant was unemployed and therefore, could not file the present appeal for want of funds. He submits that after getting financial assistance from his friend, the applicant filed the present appeal challenging the Judgment and award passed by the 2nd Labour Court. He submits that the applicant has 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. In support of his contention, the learned Counsel for the applicant relies on paragraph 4 of Civil Application, which reads thus:

“4. The applicant state that, judgment and order was passed on 28th March, 2011. Certified copy was applied on 28th March 2011 and the same was ready on 11th May, 2011. The applicant states that due to accommodation problem and due to serious injury the applicant left to his native place. The Applicant states that, all this period, the applicant is unemployed and therefore, could not file the present appeal for want of funds. The applicant states that, with the financial assistance from his friends, the Applicant has filed the present appeal to challenge the impugned order dated 28th March 2011 passed by the learned Addl. Commissioner and 2nd Labour Court, Mumbai. The Applicant state that there is delay of 2 year and 165 days in filing of the appeal and the said delay is neither intentional nor deliberate. The applicants states that in the event his Hon'ble Court passes an order in favour of the applicant by setting aside the impugned order, the applicants shall not claim any interest of delayed period in filing the present appeal and therefore, no prejudice would be caused to

the Respondents if the delay in filing the present appeal if condoned by this Hon'ble Court.”

5 On the basis of these submissions and averments made in Civil Application, the learned Counsel for the applicant submits that this Hon'ble Court be pleased to allow the Civil Application in terms of prayer clause (a) and matter to be heard on its own merits.

6 I heard learned Counsel for the applicant at length. The main contentions raised by the learned Counsel for the applicant for delay of more than 2 years are that serious injuries sustained in the accident, for want of proper accommodation, the applicant left to his native place and financial difficulties. It is to be noted that in Civil Application, the applicant has not stated when he left Mumbai for his native place. Nowhere, it is stated that when he returned to the Mumbai. It is also not stated in the application the name of friend who has assisted him financially to file present First Appeal in this Court.

7 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.

8 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.

9 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.

10 The Apex Court in the matter of **Esha Bhattacharajee 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 be rejected.

11 Considering the reasons disclosed by the applicant as stated in the paragraph 4 of the Civil Application, I do not find any sufficient reason to condone the delay of more than 2 years.

12 Hence, Civil Application stand rejected.

(K.K.TATED, J.)