

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION (C.A.F.) NO.401/2011

IN

FIRST APPEAL STAMP NO.22279/2010

Shri Nandlal s/o Kesharao Akre

..Versus..

Mukund Narayan Wankhede

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri N. Pradnyakar, Adv. for the respondent.

CORAM : Z.A. HAQ, J.

DATE : 9.3.2015

The matter was called out in the morning session. None appeared for the applicant. The matter was kept back.

Shri P.P. Khaparde, advocate h/f Shri G.G. Bade, advocate for the applicant requests for adjournment. However, considering the facts on the record I am not inclined to adjourn the matter.

The application is pending for consideration since 2011. Shri G.G. Bade, the learned advocate sought adjournment on 5th January, 2015 and 19th January, 2015. Today, again the learned advocate for the applicant is not present.

The application is filed praying for condonation of delay of 632 days in filing the appeal challenging the order passed by the Commissioner under the Employees Compensation Act.

As per the third proviso below Section 30 of the Employees Compensation Act, 1923 the appeal has to be accompanied by certificate issued by the Commissioner showing that the appellant has deposited the amount payable under the order appealed against. The Commissioner by the impugned order has determined the amount of compensation payable by the appellant to the respondent as Rs.97,108/-. The appellant has placed on the record copy of the receipt dated 22nd December, 2010 showing that the appellant has deposited Rs.29,651/-.

Apart from the fact that sufficient cause has not been shown by the applicant on the basis of which the delay can be condoned, the appeal cannot be entertained having been filed without complying with the requirements of third proviso below Section 30(1) of the Employees Compensation Act, 1923.

In view of the above, the civil application is dismissed. Consequently, the first appeal is dismissed. In the circumstances, the parties to bear their own costs.

The amount deposited by the appellant shall be given to the respondent along with interest, if any.

JUDGE

Tambaskar.