

*

HIGH COURT OF DELHI AT NEW DELHI

+

Mac. Appeal No.788/2013 & C.M. Nos.13012/2013, 13013/2013

Decided on : 15th July, 2015

ORIENTAL INSURANCE CO. LTD.

..... Appellant

Through: Mr. Pradeep Gaur, Advocate.

Versus

AMAN TANEJA & ORS.

..... Respondents

Through: Mr. Sanjiv Gupta & Mr. Vittal Khan,
Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (ORAL)

1. This is an appeal filed by the insurance company against the award dated 29.8.2012 passed by the learned MACT. Along with the appeal there is an application bearing C.M. No.13012/2013 seeking condonation of 270 days delay in filing the appeal.

2. I have heard the learned counsel for the appellant on the delay application and have also gone through the record. The reasons for 270 days delay given in the application are that although the award was passed on 29.8.2012; however, prior to that, the award was reserved and as and when the counsel for the appellant went to check from the court staff as to whether the award has been pronounced or not, it was informed

that the order is still reserved. It is further stated that for the first time, the appellant came to know about passing of the award only at the time when the execution was filed and accordingly, they informed the counsel to apply for certified copy on 28.5.2013 which was received by them on 7.6.2013 and thereafter forwarded to the appellant company on 13.6.2013. After obtaining the certified copy, legal opinion on the award was obtained and the appeal was filed.

3. Along with the application, affidavit of Ragini Mehrotra, Manager, Oriental Insurance Company Ltd. has been filed in support of the averments made in the application; however, neither the name of the counsel, who was representing the appellant before the MACT nor his affidavit has been filed. In the absence of this, the story which has been setup by the appellant does not inspire confidence. Even if it is assumed that the order was reserved, the counsel or the client is expected to keep a watch because as and when the orders will be pronounced, their title will be reflected in the daily cause list. It seems that after the order was reserved, both the counsel as well as the appellant company went into slumber and did not make any serious and genuine effort to check up the award having been passed or alternatively they were aware of the award

but the counsel and the appellant company was so slack that they did not consider it necessary to apply for grant of certified copy immediately and take appropriate corrective steps to assail the same. The reasoning given by the appellant is not convincing and does not inspire confidence. On the one hand, they say that they were informed for the first time about passing of the award when the execution was sought. If that was so, then execution petition obviously was filed much before 13.6.2013 while as in the same paragraph, the appellant is saying that they learnt about the factum of award having been passed when they received intimation from the counsel on 13.6.2013. This is apparent from the reading of the averments in para 3 of the application where the appellant states that they applied for certified copy on 28.5.2013, received it on 7.6.2013 and the same was forwarded to the appellant company on 13.6.2013. Therefore, this part of the averment is directly inconsistent with the factum that they learnt about passing of the award only on 13.6.2013. Even after receiving the order on 7.6.2013, the appellant company has not acted with due dispatch, as they ought to have, because it had taken them almost 70 days even after obtaining the copy to prefer the appeal because the appeal has been filed on 23.8.2013. No doubt the appellant is an institution having a

regular department full of law officers who do '*parvi*' of their cases but it seems that despite this fact, the appellants were not serious in assailing the award.

4. The Supreme Court in number of cases has repeatedly impressed that what is important while condoning the delay is not the length of delay but *bona fides* of the party. In the instant case, although the delay is of only 270 days which stands unexplained but even if one takes a lenient view on account of the same, still the whole sequence of event which is setup by the appellant does not inspire confidence and consequently, it can by no stretch of imagination be said that the appellants were *bona fide* in prosecuting the appeal or the trial court matter for the purpose of filing the appeal.

5. I, therefore, do not find that it is a fit case where delay of 270 days should be condoned. Accordingly, the application for condonation of delay is dismissed. As the application seeking condonation of delay itself is dismissed, the appeal has become time barred.

V.K. SHALI, J.

JULY 15, 2015
'AA'