

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

16 CIVIL APPLICATION NO. 886 OF 2013
IN X-APLST/1503/2013

JAGAN ANDRES MISAL AND ANR
VERSUS
UNITED INDIA INSURANCE COMPANY LTD AURANGABAD AND
ORS

...

Advocate for Applicants : Mr. Salve Gulabrao K.
Mr. D V Soman For R/1.

CORAM : P.R.BORA, J.

DATE : 30th March, 2016.

PER COURT :

1) This is an application seeking condonation of delay caused in filing the present cross appeal by original claimants. Delay of 5138 days has been caused.

2) The learned Counsel appearing for the applicant submitted that the appeal filed by the Insurance Company was once dismissed in default and was restored in 2009. It is further submitted that some other counsel was appearing on behalf of the original claimant in the earlier

proceedings. The moment original claimants come to know that first appeal filed by the Insurance Company has been restored, they have contacted their lawyer and thereafter have filed the cross appeal along with the present application seeking condonation of delay.

3) The learned Counsel appearing for the applicants submits that the original claimants may not insist for grant of interest of the intervening of 5138 days in the event their Cross-appeal is allowed.

4) The learned Counsel appearing for the appellant/insurance company has strongly opposed for condonation of delay stating that the reasons which are stated for occurrence of the delay are insufficient to condone the delay.

5) In view of the fact that the appeal filed by the Insurance company is yet to be heard, it does not appear to me that any

prejudice will be caused to the insurance company if the original claimants are permitted to file the cross-appeal. I am, therefore, inclined to allow the present application. Hence, the following order, -

ORDER

i) Delay in filing the cross-appeal is condoned, subject to filing of an undertaking by the applicants, i.e. original claimants that they will not claim any interest for the intervening period of 5138 days in the event their cross-appeal is allowed.

ii) The Cross-appeal be registered in accordance with law.

iii) Place the First Appeal No.77/1999 for final hearing with this cross-appeal on 21st April, 2016.

(P.R.BORA,J.)

bdv/