

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2918 OF 2013
IN
FIRST APPEAL st. NO.16893 OF 2013

Rohan Anilkumar Salve

... Applicant

Vs.

Divisional Manager,
The New India Assurance Co. Ltd.& Ors.

... Respondents

Mr.S.R. Shukla i/b Abhay Nevagi & Asso. for the Applicant
Mr.M.Kaizunkar a/w Namita Mistry i/b Navdeep Vora & Asso. for
Respondent Nos.2 & 3

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: 18th FEBRUARY, 2016

P.C.:

1. This is an application for condonation of delay of 321 days in filing the appeal, whereby the judgment and award dated 5.5.2012 in MACP No.662 of 2002 passed by the Motor Accident Claims Tribunal, Kolhapur holding the appellant/driver responsible jointly and severally alongwith the owner of the vehicle, is challenged.

2. The learned Counsel for the appellant / applicant submits that the appellant was not well as he was under stress. He has lost one eye because of heavy diabetes. He has annexed copies of the medical certificates. He has also spent time in contacting and collecting information about the legal heirs of the respondent Nos.2 and 3 and,

therefore, there is a delay of 321 days.

3. The learned Counsel for the respondent Nos.2 and 3 i.e., the original claimants, opposes this application on the ground that the reasons given are not sufficient to explain the delay of 321 days.

4. Copies of the medical certificates are annexed herewith. Perused the same. It appears that the applicant was taking treatment in 2012 i.e., after the Tribunal decided the claim on 5.5.2012. On query, I am informed that the insurance company is exonerated and the original claimants have filed appeal challenging the judgment and award on this point and the said appeal is admitted. Considering these submissions and the facts, I condone the delay of 321 days, however, subject to applicant paying costs of Rs.500/- to the original claimants.

5. Upon payment of costs, the appeal be registered and listed for admission on **3.3.2016** alongwith the Civil Application for stay.

6. Registry to accept compilation of documents, if filed by the parties.

7. Civil Application stands disposed of accordingly.

(MRIDULA BHATKAR, J.)