

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 3976 OF 2014

IN

FIRST APPEAL (ST) NO. 30879 OF 2014

Smt. Deepa Jiten @ Jitenkumar Name
and Ors.

.....Applicants
(Orig. Claimants and
Resp. Nos.1 to 3)

IN THE MATTER BETWEEN :

National Insurance Company Limited

.....Appellant
(Orig. Opp No.2 and
Res. No.1 in this
Application)

V/S.

1. Smt. Deepa Jiten @ Jitenkumar Name
and Ors.

.....Respondents
(Orig. Claimants)
(The Res.nos.1 to 4 are
Orig. Claimants & the
res.nos.5 & 6 are Orig.
Opp. Nos.1 & 3)

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Mr. Rahul Mehta, Advocate for the applicant.

Mr. Sudhakar G. Thorat, Advocate for respondents no.1 to 3.

Coram :- Smt. R.P. SondurBaldota, J.

1st April, 2016.

P.C. :-

1). This Civil Application is for condonation of delay of 69 days
in filing the appeal by the Insurance Company to challenge the award of

compensation to the respondents on account of death in a motor vehicle accident. The impugned Award is dated 16th May, 2014. The first appeal alongwith the present application for condonation of delay came to be filed on 11th November, 2014.

2). About 3 weeks after the award i.e. on 4th June, 2014 the applicant applied for its certified copy. It was ready on 2nd July, 2014 and collected by the applicant on the same day. The applicant claims that, thereafter for taking decision to challenge the award, the papers moved in its different offices from officer to officer. It has given as many as about 25 dates for such movements and various steps taken towards the decision. The application even records the dates of the week-ends and public holidays when the offices were closed. But one fails to understand as to how such narration can help the applicant in explaining the delay. If the applicant has its internal procedure to be followed for taking decisions in connection with legal proceedings, the same must obviously fit into the period of limitation provided by the law. It is only the exceptional circumstances, which circumstances prevent the applicant in filing the proceedings in time that can be taken into consideration. The routine procedure of the applicant is not an exceptional circumstance.

3). Mr. Thorat, the learned Advocate appearing for respondents

no.1 to 3, submits that the details of the actions and the dates narrated by the applicants are patently incorrect. He points out that, at para-5, the applicant claims that on 15th September, 2014 the partner of the law firm engaged by the applicant took up in hand the preparation of the legal opinion in the matter and the exhaustive legal opinion was forwarded to the office of the applicant on 21st September, 2014. However, in the next para, it is claimed that the Deputy Manager had perused the legal opinion and thereafter placed the file for approval before the Regional Manager on 18th July, 2014.

4). Mr. Mehta, the learned Advocate appearing for the applicant submits in reply that, the reference to the date of 22nd September, 2014 at para-5 of the application is a mistake. He seeks to submit that, the partner of the law firm had taken up the work of preparation of legal opinion on 15th September, 2014, prepared it on the same day and also forwarded it on the same day to the office of the applicant. This explanation coming across the bar is difficult to accept. However, in my opinion, considering the quantum of the compensation awarded, an opportunity in this matter may be given to the applicant for decision on merit. In the circumstances, the respondent is required to be compensated. Hence, the Civil Application is allowed in terms of prayer clause (a) on condition that the applicant pays costs quantified at

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(sr. no.13)

Friday,1.4.2016

Rs.25,000/- to respondents no.1 to 3 within a period of 2 weeks from today. Office to number the appeal and place the same for admission on board on 13th April, 2016.

(SMT. R.P. SONDURBALDOTA, J)