

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

25 CIVIL APPLICATION NO. 9059 OF 2012
IN FAST/19454/2012

SURENDRA BABULAL JAIN
VERSUS
THE NEW INDIA INSURANCE CO. LTD. AND ANR

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Advocate for Applicant : Mr. Bhokarikar Madhav M
Mr.M M Ambhore, Advocate for R/1.

CORAM : P.R.BORA, J.

DATE : 6th June, 2017.

PER COURT :

1) Heard. The appellant has filed the present application seeking condonation of delay, which is caused in filing the appeal by him against the Judgment and Award passed by Motor Accident Claims Tribunal, at Jalgaon in MACP No. 143/2005 decided on 16th July, 2010. Delay of 649 days has caused in filing the aforesaid appeal.

2) Shri Bhokarikar, learned counsel appearing for the applicant/appellant submitted that the applicant has incurred 100% disablement because of the injuries caused to him in the

alleged accident, and as such, he was unable to take necessary steps for filing the appeal. The learned Counsel further submits that financial difficulties was another reason, which also prevented the applicant from filing the appeal within the stipulated period of limitation.

. The learned Counsel further submits that the applicant/applicant undertakes not to claim any interest of the period of delay, however, opportunity needs to be given to the applicant to agitate his appeal on merits.

3) Shri Ambhore, learned Counsel for the respondent – insurance company, has opposed for condoning the delay. The learned Counsel submitted that there is no cogent and sufficient reasons assigned by the applicant so as to condone the delay. The learned Counsel further submits that the delay is of the period of about two years and in absence of any plausible explanation, the same cannot be condoned.

4) After having considered the submissions advanced by the learned Counsel for the parties, and more particularly having taken into account the grounds raised by the applicant, it appears to me that the applicant needs to be given an opportunity to agitate his appeal on merits. Moreover, the applicant/appellant has also undertaken not to claim any interest of the period of delay. In view of the above, delay caused of 622 days in filing the appeal is condoned. The appeal be registered in accordance with law. CA stands disposed of.

5) It is clarified that the appellant/applicant will not be entitled for any interest of the period of delay in the event he succeeds in the present appeal. The appellant/applicant is directed to file the undertaking in that regard.

. A copy of this order be kept in the papers of appeal.

6) After registration of the appeal, issue notice to the respondents, returnable after six weeks.

. Shri Ambhore waives service for Respondent No.1.

. The appellant is permitted to serve Respondent No.2 by paper publication in addition to regular mode of service.

(P.R.BORA,J.)

bdv/