

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 13762 OF 2016 IN FAST/19546/2016

THE ORIENTAL INSURANCE CO. LTD.
VERSUS
BALIKA YADVRAO SHELKE AND OTHERS

...
Advocate for Applicant : Mr.V. R. Mundada h/f. Mr. R. F. Totala.
Advocate for Respondents No.1 to 4 : Mr. V.G.Kolole Mr. V. D. Gunale.
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CORAM : K.K. SONAWANE, J.

DATED : 7TH NOVEMBER, 2017.

Order :-

Heard learned counsel for applicant and learned counsel for respondents No. 1 to 4. Despite service of notice, none appears for respondent No. 5.

2. This is an application for condonation of 200 days delay for filing First Appeal against the impugned Judgment and Award passed by the learned Commissioner of Employees Compensation Act and Judge of Labour Court, Nanded in ECFA No. 10 of 2003 dated 05-10-2015. According to learned counsel for applicant, the so-called delay is not intentional or deliberately, but caused due to unavoidable circumstances. In case, delay is not condoned, it will cause injustice and prejudice to the applicant. He prayed to condone the delay in the interest of justice.

3. Learned counsel for respondents No. 1 to 4 has raised objection that delay caused for filing first appeal is not explained satisfactorily on behalf of the applicant, therefore, same may not be condoned.

4. I have considered the submission advanced on behalf of both side. Perused the application. The matter pertains to the compensation arising from the vehicular accident during course of employment. The learned Commissioner has partly allowed the

petition and imposed monetary liability on employer as well as Insurance Company. The applicant- Insurance Company is intending to agitate the findings expressed by the learned Commissioner for redressal. In such circumstances, it would be justifiable to provide a reasonable opportunity to ventilate it's grievance before the Appellate Forum for redressal. It would not cause injustice or prejudice to the respondents. In contrast, it would serve the purpose for substantial justice. Therefore, there is no impediment to condone the delay. It is settled rule of law that while dealing with the application for condonation of delay, the liberal and pragmatic approach is essential to be adopted by avoiding pedantic approach. In such circumstances, I proceed to allow the application for condonation of delay filed on behalf of the applicant. Hence, the application for condonation of delay is allowed in terms of prayer clause 'B'. The delay of 200 days caused for filing First Appeal against impugned Judgment and Award is hereby condoned. Accordingly, the civil application stands disposed of. Registry to take requisite steps for further process.

5. On registration of appeal, issue notice for hearing at the admission stage to respondents No. 1 to 5, returnable on 14th December, 2017.

6. Mr. V. D. Gunale, learned counsel waives service of notice for respondents No. 1 to 4.

7. In addition to regular mode of service, applicants shall serve notice to the respondent No.5 privately by fastest legally acceptable mode and file affidavit of service of notice on record with tangible proof to that effect by the returnable date.

8. Meanwhile, call for record and proceedings from the concerned learned Commissioner.

[K. K. SONAWANE]
JUDGE