

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

38 CIVIL APPLICATION NO. 11161 OF 2016 IN FAST/25032/2016

UNITED INDIA INSURANCE CO. LTD. THR ITS DY. MANAGER (T.P. HUB)
DIVISIONAL OFFICE-
VERSUS
SANGITA DNYANOBA SHINDE AND ORS

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Advocate for Applicant : Mr. Swapnil S. Rathi.
Advocate for Respondents No. 1 to 7 : Mr. R. B. Deshpande.

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CORAM : K.K. SONAWANE, J.
DATE : 4th September, 2017.

PER COURT:

1] This is an application for condonation of delay of 529 days caused for filing the first appeal by the Insurance Company against the impugned judgment and award passed by the learned MACT, Latur in MACP NO. 172 of 2010. According to the learned counsel, the so called delay was not intentional and deliberate but caused due to compliance of official process. The applicant insurance company is not responsible for the monetary liability arising from the vehicular accident in this case. The applicant has every hope of success in the appeal. Hence, the learned counsel prayed to condone the delay.

2] Learned counsel for the respondent No.1 raised objection that the delay has not been properly explained. The findings of the learned Tribunal are just, proper and reasonable. Therefore, he prayed not to condone the delay and reject the application.

3] Learned counsel for the respondent NO.9 also vociferously opposed the contentions put forth on behalf of applicant and submits that the monetary liability imposed on the applicant insurance company appears to be just, proper and reasonable. Hence, he prayed to reject the application.

4] Learned counsel for respondent No.10 remained absent. Therefore, there would not be any opportunity to hear the respondent NO.10. Respondent No.8 is not yet served. He appears to be the owner of the offending vehicle involved in the accident. Respondent No.9 is the insurance company and insurer of the said vehicle.

5] Matter pertains to condonation of delay, pending since 2004. Therefore, there would not be any propriety to keep the matter in abeyance for service of notice to respondent No.8, who is the resident of West Bengal. IN the proceeding before the learned Tribunal, notice of the present matter was served on respondent No.8 through paper publication but did not evoke any result. He remained absent. Therefore, learned Tribunal proceeded Ex-parte against him. In such circumstances, I do not find any propriety to protract this application for securing presence of respondent No.8 in this matter.

6] I have given anxious consideration to the arguments advanced on behalf of the applicant and respondents. In view of the reasons mentioned in the application, I do not find any impediment to condone the delay for the purpose of advancement of substantial justice. Hence, application is allowed in terms of prayer clause (B). Delay caused for filing the First appeal stands condoned. Registry to take requisite steps for further process. List the appeal for hearing at the stage of admission. Application is accordingly disposed of.

[K.K. SONAWANE]
JUDGE.

grt/-