

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**939 CIVIL APPLICATION NO. 11007 OF 2014
IN FAST/26339/2014**

THE NEW INDIA ASSURANCE CO LTD

VERSUS

SYED AJGAR SYED NIYAJODDIN AND ANOTHER

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Advocate for Applicant : Mr. M.M. Ambhore
Advocate for Respondent No.1 : Mr. Prasad Jawale

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CORAM : K.K. SONAWANE, J.

DATE : 27th September, 2017

PER COURT :

1. Heard learned counsel for the applicant and learned counsel for respondent No.1-original claimant. Despite service of notice none-appears for respondent No.2.

2. This is an application for condonation of delay of 113 days in filing First Appeal against the impugned Judgment and Award passed by the learned

Commissioner for Employees' Compensation, Parbhani in W.C.N.F.A. No. 19 of 2011. According to the learned counsel for the applicant, the delay caused in filing First Appeal is not intentional or deliberate, but it is caused due to compliance of official process. The applicant-Insurance Company had to receive instructions from the legal advisor of it's company at Nagpur, and thereafter, the matter was handed over to the concerned learned counsel for filing the Appeal in the High Court. In such circumstances, the delay caused in filing Appeal is not intentional, but caused due to unavoidable circumstances. In view of this, he prayed for condonation of delay.

3. Learned counsel for respondent No.1/original claimant raised objection and submits that the delay caused for filing the Appeal has not been explained satisfactorily and it would be unjust and improper to condone the delay.

4. I have heard the submissions canvassed on behalf of both sides and perused the application as

well as the impugned judgment and award passed under the Employees' Compensation Act. The learned Commissioner partly allowed the claim petition and granted the compensation of Rs.1,40,000/- alongwith interest from the date of accident till its full and final realization. The appellant-Insurance Company has called in question all these findings in this appeal. Obviously, the delay has been caused due to compliance of official process, and therefore, I do not find any impediment to condone the delay in the interest of justice. It is settled law that the liberal and pragmatic approach is to be adopted while dealing with the condonation of delay by avoiding pedantic approach. In such circumstances as well as the reasons mentioned in the application, the so-called delay caused in preferring the Appeal deserves to be condoned. In this situation, application stands allowed in terms of prayer clause "B". The delay so caused in preferring the Appeal against the impugned Judgment and Award is hereby condoned. Registry to take requisite steps for further process.

5. On registration of Appeal, issue notice to the respondents. Learned counsel Mr. Prasad Jawale waives service of notice on behalf of respondent No.1-original claimant.

6. Call record and proceedings from the concerned learned Commissioner.

7. After compliance of the proper formalities, place the appeal for admission in due course.

(**K.K. SONAWANE, J.**)