

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 279 OF 2017

IN

STAMP NUMBER MAIN NO. 854 OF 2017

NATIONAL INSURANCE CO. LTD., THR.
ITS MANAGER.,

... Applicant

Versus

BASAVARAJ BHIMAPPA HAGIDAL AND 3
ORS.,

... Respondents

Shri A. Kakodkar, Advocate for the Applicants.

Shri P.Faldessai, Advocate for the respondents no.1 and 2.

Ms. P. Remedios, Advocate for the respondents no.3 and 4.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 11th August 2017

P.C.:

Heard Shri A. Kakodkar, learned Advocate for the Applicants, Shri P.Faldessai, learned Advocate for the respondents no.1 and 2 and Ms. P. Remedios, learned Advocate for the respondents no.3 and 4.

2. This is an application for the condonation of delay.

3. Shri A. Kakodkar, learned Advocate for the applicants submitted that the copy of the Judgment and Award was applied

for on the very day and its certified copy was received on 25/10/2016. However, the award came to the knowledge of the applicants on 27/10/2006 on receipt of the letter dated 26/10/2016 from its Advocate who was handling the case before the learned MACT. Thereupon their office at Belgaum undertook the exercise to look into the genuineness of the driving license of the driver and in that course, considerable time was taken to learn that the license so issued to the respondent no.1 was not genuine. In that process there was a further delay in settling the appeal and filing the same before this Court resulting in a delay of 53 days.

4. Shri P. Faldessai, learned Advocate submitted that the documents which have been produced during the course of the hearing of the application on behalf of the applicants were neither genuine nor was there any authenticity in their documents which did not bear the seal on the face of the documents from which the authority issued the same. The grounds urged by the applicants to condone the delay were not at all satisfactory and, therefore, the application had to be dismissed.

5. The learned MACT heard the parties and held in favour of the respondents no.1 and 2 and fastened the liability on the present applicants alongwith the registered owner and driver to

pay the quantified sum to the original claimants. The learned MACT had given a finding on the issue no.4 that the respondents no.3 had not led any evidence to establish that the driver was not having a valid and effective driving license at the relevant time and in that view of the matter rendered negative findings against the applicants thereby not absolving the applicants from any liability to pay the compensation to the applicants.

6. Be that as it may, the applicants have now set out a case that they had carried out the necessary investigation into the genuineness of the driving license of the insured vehicle driver as the address given as Belgaum, Karnataka and noticed that the issuing authority was at Kadapa, Andhra Pradesh. A search was accordingly made in the said office and the investigation was carried out in the said matter and from whom it was informed that no such driving license was valid or rendered the license infructuous so produced on record. The applicants are otherwise saddled with the liability to pay the compensation to the original claimants. They had contacted their empanelled advocate for drafting and preparing the First Appeal in time. However, on account of his illness, the said Advocate was unable to meet the Applicants. The Applicants as the insurer would not stand to benefit by not contesting the appeal who have otherwise been saddled with the liability to pay the compensation to the claimants.

7. In such circumstances, therefore, i find it appropriate to condone the delay, which is hereby condoned. The Registry to register the appeal.

NUTAN D. SARDESSAI, J.

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