IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4460 OF 2003
IN
FIRST APPEAL (ST) NO.42743 OF 2003

The United India Insurance Co. Ltd. ..Applicant/Appellant
V/s.
Valsala Warrier & Anr. ..Respondents

None present for the Applicant/Appellant.

Mr.Sandesh Deshpande for the Respondents.

CORAM : M. S. SONAK, J.

DATE : 14 FEBRUARY 2017.

P.C.

1. On 31 January 2017, this Court made the following order :-

> *1. By this Civil Application, advocate Mr.Vidyarthi who was earlier appearing for the applicant seeks to withdraw his appearance. To the said Civil Application he has enclosed a letter dated 28-11-2016 addressed to the Insurance Company along with his no objection certificate. On the letter there is an endorsement the matter to be listed on 06-12-2016. The letter bears the receipt/stamp of the Insurance Company. In view of the aforesaid, the Civil Application is allowed and disposed of.*
>
> *2. Place the application for condonation of delay in the appeal for consideration on 14 February*

2017 on Supplementary Board. Ms.Divya Menon who holds for Mr.Vidyarthi states that she will give notice of this next date to the appellant Insurance Company without fail.

3. Further, Mr.Deshpande the learned counsel for the respondent-claimant submits that the claimant by now, 80 years of the age. In the year 1992 she met with an accident and by award dated 07 March 2003 she has been awarded compensation of Rs.1,25,666/-. The Insurance Company has deposited in this Court compensation of Rs.2,15,243/-. However, respondent-claimant has not received any compensation on account of ad-interim order granted by this Court restraining execution. He points out that the respondent-claimant is in dire need of money and therefore some amount may be permitted to withdraw.

4. Considering the aforesaid circumstances, the respondent No.1-claimant is permitted to withdraw 50% of the compensation deposited in this Court unconditionally.

5. All concerned to act on the basis of the authenticated copy of this order.

6. It is made clear that if on the next date the appellant Insurance Company does not appear through any authorized representative, then, this Court will consider dismissing the application for non-prosecution. Particularly since, the appeal relates to the year 2003."

2. Today, the appellant Insurance Company does not appear through any authorized representative.

3. Accordingly, in the circumstances referred to in the aforesaid order dated 31 January 2017, it will be appropriate to

dismiss, the application seeking condonation of delay in institution of the First Appeal for non-prosecution. As a result, the appeal and the application for stay of the impugned award do not survive and the same are also dismissed for non-prosecution.

4. The amounts deposited by the applicant/appellant are permitted to be withdrawn by the respondent-claimants in accordance with impugned award.

(M. S. SONAK, J.)