

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 4297 OF 2003

IN

FIRST APPEAL (ST) NO. 26281 OF 2003

Avanish C. Maniyar

.. Applicant

vs.

Sanjay L. Jadhav and anr.

.. Respondents

None for both sides.

CORAM : M. S. SONAK, J.

DATE : 30 JANUARY 2017.

P.C. :-

1] Neither the applicant nor his advocate are present.

2] By this civil application, the applicant seeks condonation of delay of one year and forty days, i.e., about 405 days in instituting the present appeal. The only reason set out in the civil application is at paragraph 4 and the same reads thus:

“4. The Applicant states that the Applicant is engaged in the business, which its activities in different states in India. Moreover, for his business activities, he is frequently required to tour to different places. The applicant, at material time was in the state of Gujarat and visiting different places hence could not keep track of his claim application. When the Ld Tribunal dismissed his claim application his lawyer tried to contact him in Mumbai but as she did not have his Gujrat contact address, no further instructions could be collected for filing the appeal. The Applicant was unaware of dismissal of his claim at the instance of hearing of no fault liability application U/s140 of the Act. It is further stated that when the applicant came to Mumbai he tried to contact his lawyer, who was out of town due the vacation of the Court. In first week of June the applicant could meet his lawyer and found that his application was dismissed without any trial. The applicant immediately acquired the certified copy of the impugned Order and preferred the first appeal. In the circumstances, the applicant took certain time to file the present appeal.”

3] The reason is quite vague and does not constitute any sufficient cause. Besides, if the impugned award is perused, it is seen that the applicant had claimed compensation on account of demise of his mother aged 70 years. The MACT has held that the applicant had failed to establish that he was dependent upon his mother. That apart, the MACT has also held that there was material on record to show that the applicant was not even residing with his mother, much less being dependent upon her.

4] In the affidavit accompanying the application seeking condonation of delay, at paragraph 3, the applicant has himself stated that he is engaged in production of metal alloy, having business activities in different States of India. He has stated that his business unit is situated at Palghar. He has also stated that he is frequently out of town on account of his business activities. All this, virtually supports the findings in the impugned order that the applicant was not dependent upon the aged mother.

5] The merits of the award are not being scrutinized, since, at this stage, the question is only whether sufficient cause is shown to condone the delay of 405 days. The statement that the applicant is a businessman, who has to tour different parts of India by itself, is not at all sufficient to explain the delay. The averments in the application are very casual and inspire no confidence. Accordingly, the civil application is dismissed. As a consequence, the appeal itself stands dismissed.

(M. S. SONAK, J.)