

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 3493 OF 2008
AND
CIVIL APPLICATION NO. 3494 OF 2008
IN
FIRST APPEAL (ST) NO. 14984 OF 2008

United India Insurance Company Limited,
Mumbai

.. Appellant

vs.

Pradeep K. Patil and ors.

.. Respondents

Mr. Mehta i/b M/s. KMC Legal for the Appellants.

CORAM : M. S. SONAK, J.

DATE : 30 JANUARY 2017.

P.C. :-

1] Civil Application No. 3493 of 2008 seeks condonation of delay of 363 days in filing the first appeal against the award dated 17 February 2007 made by the Motor Accident Claims Tribunal (MACT), Raigad.

2] The civil applications stand dismissed as against respondent No.1, i.e., original claimant way back in the year 2008. Till date, no application has been made even seeking restoration. In the absence of respondent No.1, i.e., the original claimant, most of the grounds urged in the appeal cannot even be adjudicated.

3] Mr. Mehta, however, submits that in this case, the principle of pay and recover might apply and therefore, the appeal can proceed as against the owner and driver. Without going into the question as to whether such principle will apply in the facts and circumstances

of the present case, it is required to be noted that the delay in this case is of about 363 days.

4] The explanation given for such delay is quite routine and unverifiable. All that is stated that some time was spent in taking decisions and obtaining legal opinion. On basis of such explanation, delay cannot be routinely condoned. On account of pendency of this application, the claimants shall were not able to recover the compensation since the year 2007.

5] Accordingly, the civil application seeking condonation of delay is dismissed. Consequently, the first appeal and the civil application for stay are also dismissed. The ad-interim order, if any, stand vacated.

6] The amounts deposited by the appellants in this court may be transmitted to MACT, Raigad within two weeks from today. The amounts already deposited by the appellants before the MACT, Raigad as also the amounts now directed to be transmitted are permitted to be withdrawn by respondent No.1-claimant in accordance with directions in the impugned award.

(M. S. SONAK, J.)

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