

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 3252 OF 2014
AND
CIVIL APPLICATION NO. 3253 OF 2014
IN
FIRST APPEAL (ST) NO. 22335 OF 2014
United India Insurance Company Limited .. Applicant
vs.
Smt. Yasmin S. Sheikh and ors. .. Respondents

Mr. Mehta i/b M/s. KMC Legal Venture for the Applicant-Appellant.

CORAM : M. S. SONAK, J.
DATE : 09 JANUARY 2017.

P.C. :-

1] The delay in institution of the first appeal is 3 years and 81 days. The reasons set out in Civil Application No. 3252 of 2014 is that the advocate before the concerned Motor Accident Claims Tribunal (MACT) delayed informing the appellant that the matter has been disposed of. Some correspondence is placed on record in support of such statement.

2] In this case, the impugned award was made on 24 February 2011. For a period of almost over two years, i.e., up to February 2014, the appellant company, claims that it has no knowledge whatsoever of disposal of the appeal. In the correspondence, there is reference to the advocate submitting his memo towards professional fees some time on 13 February 2013. The memo or covering letter accompanying the memo has not been produced on record. In the correspondence placed on record, the decision makers had issued instructions to implead the advocate, who appeared for the appellant before the MACT as a party respondent in this appeal. This was

possibly because there was a dispute as to who was really responsible for inordinate delay in the institution of the appeal. In this appeal, however, the advocate concerned has not been impleaded as a party. In such circumstances, it is not possible to simply accept that the concerned advocate was the one who was really responsible for this inordinate delay. Besides, it is not sufficient for the appellant to merely entrust the matter to the advocate and not follow up the same. In this case, there is nothing placed on record to indicate that the appellant was following up the matter. If this was so, it is inconceivable that the appellant was unaware of the disposal of the matter by the MACT. Taking into consideration the inordinate delay and explanation, which, to a great extent is unverifiable, I am not convinced that this is a matter where any indulgence should be shown and the inordinate delay of over three years condoned. Ultimately, it is to be noted that this is the matter where the claim was on account of demise of the claimants' husband and father. The husband of claimant No.1 and father of claimant Nos.2 and 3, who were then minors died in a motor accident.

3] Accordingly, no case is made out for condonation of such inordinate delay. Accordingly, Civil Application No. 3252 of 2014 is dismissed. Consequently, First Appeal (St.) No. 22335 of 2015 is also dismissed. Civil Application No. 3253 of 2014 does not survive and the same is also disposed of accordingly. The interim orders, if any, stand vacated.

(M. S. SONAK, J.)