

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 8905 OF 2015
IN FAST/20755/2015 WITH CA/8906/2015 IN FAST/20755/2015

M/S. SHRIRAM GENERAL INSURANCE CO. LTD.

VERSUS

SOMAKANT RADHAKRISHNA BANKAR AND ANOTHER

Advocate for Applicant : Mr. M.A. Deshmukh h/f Mr. S.G.
Chapalgaonkar
Advocate for Respondent No. 1 : Mr. N.C. Garud

CORAM : A.M. DHAVALÉ,J.

DATE: 7th AUGUST, 2018

PER COURT:-

1. Heard learned advocates.
2. There is delay of 74 days in preferring this appeal against the order of grant of NFL. It is claimed that the award is passed on the basis of fake cover note and delay has occurred on account of consumption of time in following the official formalities.
3. This grant of NFL amount may adversely affect the appellant at the time of final trial as it would be assumed that the insurance company has not challenged its liability to pay the compensation.
4. Learned Advocate shri. Chapalgaonkar. has argued that he

has very good case on merits and liability was imposed on the appellant without contractual obligation.

5. Advocate Shri. Garud opposed the application on the ground that the grounds raised are vague and not genuine.

6. The provisions of limitation Act should be strictly construed. However, when there is short delay in the interest of justice, delay should be liberally construed for safeguarding the public interest.

7. I rely on the Judgment of the Apex Court in the case of *Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy and Ors.* (2013) 12 SCC 649.

21.1. (I) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.

21.2 (ii) The terms “sufficient cause” should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.

21.3. (iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.

21.6. (vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of

justice.

21.8. (viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

21.13. (xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.

8. I hope that the superior authorities of the appellant shall evolve system whereby adverse orders against it will be challenged within time stipulated under the Limitation Act.

9. Considering the facts, the delay is condoned subject to the costs of Rs.3,000/- with the expectations that appellant may recover the same from the erring officers so as to avoid such type of delays. Amount be deposited within two weeks.

10. Civil Application stands disposed of.

(A.M.DHAVAL, J)

mta