

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 157 OF 2018
IN
FIRST APPEAL STAMP NO. 1497 OF 2018**

Reliance General Insurance Co. Ltd. ... Applicant
Versus
Shruti Shrikant Prabhu and others ... Respondents
.....
Ms Poonam Mital for Applicant.
Ms Mriganka Kandur for Respondents No. 1 to 3.
.....

CORAM : K. K. SONAWANE, J.

DATE : 13th AUGUST, 2018.

P. C.:

1. Heard learned Counsel for the applicant-insurance company and learned Counsel for respondents No. 1 to 3-original claimants. When the matter is called out, learned Counsel for respondents No. 4 and 5 remained absent.

2. The present application is filed for condonation of 251 days delay in presenting appeal against the impugned judgment and award passed by the M.A.C.T. Thane in M.A.C.P. No.250 of 2009. Learned Counsel for the applicant-insurance company submits that the delay caused is not intentional or deliberate, but due to compliance of official process. The matter pertains to the compensation under the Motor Vehicles Act. Learned Counsel requested to condone the delay.

3. Learned Counsel for respondents No. 1 to 3 raised objection and submits that the delay has not been properly explained and therefore, same may not be condoned.

4. Admittedly, the matter pertains to the compensation amount under the Motor Vehicles Act. The claimants are the parents of the deceased who was bachelor at the time of accident. Learned tribunal after appreciating the evidence on record, awarded compensation in favour of parents of deceased. According to the applicant-insurance company the learned tribunal committed error in awarding exorbitant and excessive compensation amount. After considering the factual aspect and attending circumstances on record, I find it justifiable to afford a reasonable opportunity to the applicant-insurance company to approach to the appellate forum for redressal. In case, the applicant-insurance company is prevented to approach to the appellate forum to ventilate its grievance on the technical issue of delay, it would cause injustice and prejudice to the appellant-insurance company. Hence, delay caused for filing appeal is essential to be condoned. It is settled principal of law that while dealing with the application for condonation of delay, the Court should adopt liberal approach by awarding pedantic approach. In such backdrop, civil application deserves to be allowed.

5. Accordingly, civil application stands allowed. Delay caused to present an appeal against the impugned judgment and order

passed by the Member, M.A.C.T. Thane in M.A.C.P. No. 250 of 2009 is hereby condoned. Registry to take requisite steps for further process.

6. Accordingly, civil application stands disposed of in above terms.

7. On registration of appeal, issue notice of admission to the respondents, returnable on 18th September, 2018. Ms Kundu, learned Counsel waives notice on behalf of respondents No. 1 to 3-original claimants.

8. In addition to the regular mode of service, appellants shall serve respondents No. 4 and 5 privately by legally acceptable fastest mode and file affidavit of service with its tangible proof.

(K. K. SONAWANE, J.)

Shridhar
Marutirao
Sutar

Digitally signed by
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