

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

**CIVIL APPLICATION NO. 492 OF 2018
IN
FIRST APPEAL (ST.) NO. 36414 OF 2017**

Reliance General Insurance Co. Ltd. ... Appellant/Applicant
V/s.
Tasleem Ashfak Deshpande & Ors. ... Respondents

Ms. Poonam Mittal for the Appellant/Applicant.
Mr. T.J. Mendon for Respondent Nos.1 to 8.

CORAM : K.K. SONAWANE, J.

DATE : 9th AUGUST, 2018.

P.C. :

1 Heard the learned Counsel for applicant-Insurance Company and the learned Counsel for Respondent Nos.1 to 8- original claimants. Applicant-Insurance Company served notice to Respondent No.9 privately and filed the affidavit of service of notice to Respondent No.9 on record. Despite service of notice, no one else appeared on behalf of Respondent No.9. The present application has been filed by the applicant-Insurance Company for condonation of 213 days delay to present an appeal against the impugned judgment and award passed by the M.A.C.T. Mumbai in Claim Application No.2017 of 2010. The learned Counsel for applicant-Insurance

Company submits that the so called delay caused in the proceeding is not intentional and deliberate but due to unavoidable circumstances as well as for compliance of official process. The learned Counsel requested to condone the delay. The learned Counsel for Respondent Nos.1 to 8-original claimants raised the objection and submit that the delay has not been properly explained and, therefore, same may not be condoned.

2 In view of nature of the subject matter and the reasons mentioned in the application, I do not find any impediment to grant reasonable opportunity to applicant-Insurance Company to approach to the appellat forum for redressal. The Application for condonation of delay is required to be dealt with by adopting the liberal and pragmatic approach instead of pedantic approach. In such circumstances, the application deserves to be allowed.

3 Accordingly, the application stands allowed in terms of prayer clause (a). The delay caused for presenting an appeal is hereby condoned. The Registry to take requisite steps for further process.

4 On registration of Appeal, issue notice of admission to the Respondents. Learned Counsel Mr. T.J. Mendon waives service of notice

for Respondent Nos.1 to 8. Notice to be issued to Respondent No.9, returnable on 17.09.2018.

5 In addition to the regular mode of service, appellant-Insurance Company shall serve the notice to Respondent No.9 privately by legally accepted fastest mode and file affidavit of service to Respondent No.9 on record. Meanwhile, call the record and proceeding from the concerned Tribunal.

(K.K. SONAWANE, J.)

Waishali
Sushil
Waghmare

Digitally signed
by Waishali
Sushil
Waghmare
Date:
2018.08.20
16:41:22 +0530