

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (F) NO.778/2018 IN F. A. ST.NO.1752/2018

Smt. Rupinder Kaur w/o Sukhinder Singh Ghotra .vs. Oriental Insurance
Co. Ltd. Thr. its Regional Manager, Nagpur and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. R. T. Anthony, Advocate for applicant.

CORAM : V.M. DESHPANDE, J.

DATED : OCTOBER 9, 2018

This is an application for condonation of delay preferred by original respondent no.1 in Claim Petition No.1115/2005 decided by Member, Motor Accident Claims Tribunal, Nagpur on 10.12.2010. By the said award, the learned tribunal partly allowed the claim petition filed on behalf of the claimants and directed the present applicant and the Insurance company to jointly and severally pay the amount of Rs.1,70,000/- along with interest at the rate of 7.5% p.a. The tribunal also observed that the insurance company will be entitled to recover the amount from the present applicant, in view of the policy of "Pay and Recover".

Though the award is dated 10.12.2010, the applicant has preferred an appeal challenging the same on 15.01.2018. Since there was a delay of 2503 days i.e. more than 7 years, application for condonation of delay is filed.

I have heard Mr. Anthony, learned counsel for the applicant. He invited my attention to the averments made in paragraph 4 of the application. He also submits that there is no written reply on behalf of the non applicant.

Mr. Joshi, learned counsel for the non applicant-Insurance Company objects for condonation of delay. Mr. Patait, learned counsel for non applicant nos. 2 and 3 also objects for condonation of delay. Submissions of the learned counsel for the applicant that there is no written reply and therefore the application be allowed, cannot be accepted. It is the duty of the applicant to satisfy the Court that the delay was genuine and bona fide one. In paragraph 4, the applicant has made various submissions that during certain period, the applicant was not available in India. However, no documents are filed on record to substantiate the said claim. It would have been very easy to file such documents at the time of filing of the application. Since, as on today, there is nothing available on record, no case is made out for condonation of delay. Hence, the application is rejected. Consequently, the appeal is also rejected.

JUDGE