

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAO) NO.122 OF 2018
AND
MISC. CIVIL APPLICATION (ST.) NO. 17167 OF 2017
IN
FIRST APPEAL NO. 650 OF 2016

(RELIANCE GENERAL INSURANCE CO. LTD.....VS.. SMT. KAMLABAI CHANDRABHAN @
 CHANDRAKANT KALBANDE & OTH.)

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

Court's or Judge's orders

 Shri D.N.Kukday, Advocate for Applicant/ Appellant.

CORAM : Z.A.HAQ, J.

DATED : MAY 04, 2018.

The appellant filed appeal to challenge the award passed by the Tribunal by which the claim of the respondent Nos.1 and 2 is upheld by the Tribunal. By order dated 20th July, 2016 this Court directed issuance of notice to the respondent and granted interim order on condition that the appellant shall deposit the entire amount of award within eight weeks. The notices of the respondent Nos. 1 and 2 (claimants) could not be served and the service report shows that the address given in the memo of appeal was not correct. The office note dated 31st January, 2016 shows that the appellant sought time on 18th October, 2016, 15th November, 2016, 29th November, 2016, 13th December, 2016 and 17th January, 2017 to take steps in the matter. Ultimately, the Registrar (Judicial) passed order under Chapter VII Rule 16(1)(e) of the Bombay High Court Appellate Side Rules, 1960 and dismissed the appeal against respondent Nos. 1 and 2 (claimants). On 10th April, 2017 when the matter was listed before the Court, a statement was made on behalf of the appellant/ Insurance Company that the awarded amount along with interest would be deposited within two weeks.

The Court accepted the statement and adjourned the matter. When the matter was listed before the Court on 25th April, 2017, it was noticed that the amount was not deposited by the appellant/ Insurance Company. Considering the conduct of the appellant, this Court dismissed the Civil Application No. 2063 of 2017 by which the appellant had prayed that the order passed by the learned Registrar (Judicial) on 31st January, 2017 dismissing the appeal against the respondent Nos. 1 and 2 be set aside. Then the appellant filed Civil Application No. 823 of 2018 seeking permission to deposit the amount. By order dated 3rd May, 2018, the appellant is permitted to deposit the amount. The learned advocate for the appellants states that the cheque is deposited with the Registry of this Court.

The appellant has filed Miscellaneous Civil Application Stamp No. 17167 of 2017 praying that the order passed by this Court on 25th April, 2017 be recalled and the appeal dismissed against the respondent Nos.1 and 2 be restored. As there is delay of 70 days in filing the Miscellaneous Civil Application, this Civil Application is filed.

After examining the record, I find that the order passed by this Court on 25th April, 2017 is just and proper. Considering the conduct of the appellant, the unexplained delay of 70 days in filing the Miscellaneous Civil Application cannot be condoned.

The Civil Application is **dismissed**, consequently the Miscellaneous Civil Application is **rejected**.

JUDGE