

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

CAO NO.259/2016 AND MCA ST.NO.20622/2015 IN FA NO.307/2004
National Insurance Company Ltd., A Subsidiary of General Insurance
Corporation, thr. its Administrative Officer

..VS..

Vidya wd/o Kishor Tiwaskar and ors

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

Court's or Judge's Order

.....
Shri Shashikant Borkar, Counsel for the applicant.
Ms M.Pathade, Counsel for non-applicant Nos.1 to 3.

CORAM : V.M. DESHPANDE, J.
DATED : OCTOBER 11, 2018.

1. These two applications are filed by the applicant-insurance company.
2. Initially, an appeal was filed before this Court challenging judgment and award dated 15.12.2003 passed by learned Member, MACT, Nagpur in Claim Petition No.649/1996. The appeal was admitted and pending for its final decision. The paper-book was also filed. The appeal was dismissed on 20.3.2014 for want of prosecution.
3. Since the appeal was dismissed for want of prosecution, the applicant filed an application for restoration of the first appeal. However, for moving the said application, there was delay. Therefore, an application for condonation of delay was filed.

4. I have heard learned counsel Shri Shashikant Borkar for the applicant-insurance company and learned counsel Ms M.Pathade for non-applicant Nos.1 to 3.

5. It is submitted on behalf of the insurance company that non-applicant Nos.4 and 5, the parents of the deceased, expired during the pendency of the appeal. However, other dependents and claimants of the deceased are already on record and they are represented by learned counsel Ms M. Pathade.

6. On 28.6.2017, Notices on these applications were issued and in pursuance to the said learned counsel Ms M Pathade is appearing for the claimants. No reply is filed by the claimants opposing to these applications.

7. After hearing oral submissions made across the Bar, I am satisfied that the applicant-insurance company has made out a case for condonation of delay.

8. Hence, for the reasons stated in the application, the application is allowed. Delay of 544 days is hereby condoned.

9. MCA ST.NO.20622/2015 is taken up for hearing. After hearing learned counsel for the parties, I am of the view that the Misc. Civil Application needs to be allowed in view of the statement facts made on affidavit. Consequently, the said Misc. Civil Application is allowed. The first appeal is restored to its original file.

10. The present first appeal is of the year 2004. This Court is already taking the matter upto 2010. In that view of the matter, Registry is directed to place the first appeal for final hearing.

11. Both applications are allowed and disposed of accordingly.

JUDGE

!! BRW !!

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