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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

941 CIVIL APPLICATION NO.5664 OF 2017
IN FAST/7740/2017

SHRADHA ELECTRICAL ENGINEERING COMPANY NANDED THROUGH ITS
PROPLRIETOR AMIT P. KANTHEWAD, NANDED
VERSUS
MAHANADABAI NARAYAN AAHER AND ORS.

...

Advocate for Applicant : Shri D.A. Mane h/f Shri Shinde
Ganesh P.

Advocate for Respondent nos.1 to 4 : Shri Kulkarni
Ashutosh S.

Respondent no.5 served.

CORAM: V.L. ACHLIYA, J.

DATE: 03.04.2019

PER COURT :

1] The applicant has moved this application for
condonation of delay of 128 days in filing appeal against
the impugned judgment and order passed by the
Commissioner for Workmen's Compensation.

2] Heard learned counsel appearing for the applicants
and the respondent nos.1 to 4.

3] In brief, it is contended that the delay caused in
filing the appeal was not deliberate. The award was
passed on 10.8.2016. Immediately thereafter the

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application for certified copy was made on 2.9.2016 and the copy was received on 23.9.2016. In order to prefer an appeal, the entire amount was to be deposited with the Commissioner for Workmen's Compensation and, therefore, the applicant has arranged for the money and deposited the same on 5.1.2017 in respect of which receipt was issued on 12.1.2017. Due to considerable time spent in arranging money, the appeal could not be preferred within time.

4] It is submitted that in case delay is not condoned, there is every likelihood that the applicant may suffer serious prejudice as the meritorious matter may be rejected on technical reasons. On the other hand, no prejudice would be caused to other side if delay is condoned.

5] Learned counsel for the respondent nos.1 to 4 opposed the application with contention that the cause assigned is not sufficient to condone the delay. It is submitted that the applicant has not sufficiently explained delay in filing the appeal.

6] Considering the submissions advanced in the light of grounds raised in the appeal and the pleadings having

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remained unchallenged and un-controverted, I am of the view that the delay deserves to be condoned. No serious prejudice would be caused to the respondents if delay is condoned as ultimately the matter would be decided on its own merits. On the contrary, if delay is not condoned, there is every likelihood that a meritorious matter may be rejected on technical reason. I am, therefore, inclined to allow the application.

7] Accordingly, the application is allowed in terms of prayer clause (B) and disposed of with no order as to costs. Appeal be registered.

(V.L. ACHLIYA, J.)