

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

WRIT PETITION NO.8896 OF 2019

Royal Sundaram General Insurance Co. Ltd. ... Petitioner

Vs.

Anuradha w/o Pandurang Mahadik and Ors. ... Respondents

.....

Mr. Nikhil Mehta for the petitioner

Mr. Ajit V. Alange I/b. R.S. Alange for respondent Nos.1 to 5.

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CORAM : M. S. KARNIK, J.

DATE : 27th SEPTEMBER, 2019.

P. C.:

1. Heard learned counsel for the petitioner.

2. The petitioner is the Royal Sundaram General Insurance Co. Ltd. The petitioner is the original respondent No.3 before the Motor Accident Claims Tribunal (hereinafter referred to as 'the Tribunal' for short). The claimant filed the claim petition for compensation. The petitioner-Insurance Company was served with the suit summons on 26.3.2018. The petitioner appeared on 5.6.2018 and requested for time to file the written statement. As the request made to file the written statement was not within 30 days of service of summons, the application came to be

rejected on 5.6.2018. Thereafter, by application Exhibit 20 filed on 10.8.2018 the petitioner requested for setting aside the 'no written statement' order and taking the written statement on record. By the impugned order dated 12.10.2018 the application is rejected.

3. It is the contention of learned counsel for petitioner that after appearing on 5.6.2018 and during that period the investigation of the claim was required to be carried out as a result of which the written statement could not be filed within prescribed period. However, after all details were obtained, the application was made on 10.8.2018 for setting aside 'no written statement' order.

4. Learned counsel for the respondent Nos.1 to 5-claimants opposed the petition. He supported the order passed by the Trial Court. He would submit that the application filed by the petitioner did not contain any reason for the delay in filing of the written statement. He would further submit that the Tribunal after considering the various decisions of the Apex Court, by a

reasoned order rejected the application for taking the written statement on record. He therefore submitted that no interference is warranted in the order passed by the Tribunal.

5. Heard.

6. The suit summons are served on the petitioner on 26.3.2018. Thereafter, they appeared on 5.6.2018 and requested for time to file the written statement. On 10.8.2018 they applied for setting aside the 'no written statement' order. The reason stated in the application is that the claim needed to be investigated which consume some time.

7. In my opinion, the delay in filing the written statement is not so gross which did not deserve a condonation. For the delay caused and considering the explanation of the petitioner, the respondent Nos.1 to 5-original claimants can be adequately compensated with cost.

8. Subject to payment of cost of Rs.10,000/- to the respondent Nos.1 to 5-original claimants, the present petition is

allowed. The cost to be paid within a period of two weeks from today.

9. Learned counsel for the respondent Nos.1 to 5 is agreeable if the payment of the cost is made in favour of respondent No.1. Learned counsel for the petitioner says that a cheque/Demand Draft/Pay Order of cost of Rs.10,000/- drawn in the name of respondent No.1 will be handed over to the advocate for the claimants before the Tribunal.

10. The impugned order is set aside. The application Exhibit 20 is allowed. The written statement to be filed on or before the next date fixed before the Tribunal.

11. With these observations, the petition is disposed of.

(M. S. KARNIK, J.)