

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1114 OF 2019
IN
FIRST APPEAL (ST) NO. 8185 OF 2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Ms. Deepika Prabhala I/b Res Juris for the Applicant.

CORAM: K.K.TATED, J.
DATED : 16.09.2019

P.C.

1 Heard learned Counsel for the Applicant.

2 By this Civil Application, the Applicant Insurance Co. is seeking condonation of 2 years and 230 days delay in filing First Appeal challenging the judgment and award dated 28.04.2016 passed by MACT, Pune in MACP No. 620 of 2012.

3 The learned counsel for the Applicant submits that as soon as the judgment and award passed by the Tribunal on 28.04.2019, immediately they applied for certified copy on 12.05.2016. She submits that the certified copy was ready on 18.06.2016 and the same was collected on

same day. She submits that copies were forwarded to the concerned officer for taking instructions. Thereafter, the concerned officer forwarded the papers and proceeding for filing First Appeal to the Advocate on panel. Due to oversight, the First Appeal was not filed by the said Advocate on panel and the applicant was inadvertently remained to take immediate steps. She submits that thereafter, in the month of October 2018 at the time of searching the old papers, the concerned officer came across with the original judgment and award in the present proceeding. After going through the papers and proceeding, in the said matter, he realised that it remained to file First Appeal in this Court. Thereafter, he approached the concerned higher authority for taking the decision. In the meanwhile, he misplaced the said original copies also. Hence, again they applied for certified copies on 22.01.2019 and the same was delivered to them on 15.02.2019. Thereafter, they decided to file the First Appeal in this Court. They filed First Appeal on 14.03.2019. Therefore, there is a delay. In support of her contention, she relies on paragraphs 3 and 4 of the Civil Application, which read thus:

“3. The applicant says and submits that the

impugned order was passed on 28.04.2016 and the application for certified copies was submitted on 02.05.2016. The certified copy of the impugned order was received by the Counsel of the Applicant Company on 12.05.2016. The Appellant states that in 2016 itself, the Appellant had decided to challenge the award and file the First Appeal. The Appellant had thereafter appointed their panel Advocate for filing the First Appeal. However, due to oversight the First Appeal was never filed by the said Advocate and the Appellant had also inadvertently not followed with the same.

4. The Appellant states that in October, 2018 while searching some old records in the office, they had come across the original judgment and award in this present matter. After going through the records of the present matter, the officer had realised that the Appeal was in fact not filed in the present case. Pursuant thereto, the present Legal Manager of the Appellant company had appointed the present advocates for filing the First Appeal on urgent basis.”

4 The learned counsel for the Applicant submits that they have good chance of success in the present matter. She submits that if delay is not condoned, irreparable loss and injury will be caused to the Applicant. She submits that in the interest of justice this Hon'ble Court may be pleased to condone the delay in filing First Appeal.

5 I heard the learned counsel for the Applicant at length.

6 It is to be noted that bear reading of

paragraph 3 and 4 of Civil Application show that the Applicant filed present Civil Application in casual manner. In paragraph 3, nowhere disclose the name of panel Advocate who failed to file First Appeal in time, though the certified copy was forwarded to him. Apart from that, nowhere in paragraph 4 of the Civil Application, the Applicant disclosed, the name of the concerned officer, from whom in Month of October 2018 it remained to file First Appeal before this Court. This itself shows that Applicant failed to disclose sufficient cause for condonation of delay. Therefore, I do not find any reason to entertain this Civil Application.

7 Hence, following order is passed:

- a) Civil Application is dismissed.
- b) No order as to costs.

(K.K.TATED, J.)