

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 3275 OF 2019
WITH
FIRST APPEAL (ST) NO. 9002 OF 2019
WITH
CIVIL APPLICATION NO. 3276 OF 2019

Cholamandalam M.S. General
Insurance Co. Ltd. ... Applicant
V/s.
Mr. Baban Babu Vaghare & Anr. ... Respondents

Ms. Nisha Gandhi for the Applicant.

CORAM: K.K.TATED, J.
DATED : 10/10/2019

P.C.

1 Heard learned Counsel for the Applicant.

2 By this Civil Application, Applicant Insurance Company is seeking condonation of 156 days delay in filing First Appeal challenging the impugned order dated 25.07.2018 passed by the MACT, Mumbai below Exh. 2 in MACP No. 1042 of 2017 allowing the Respondent's original Claimant's application under Section 140 of M.V. Act directing the Applicant to pay interim compensation of Rs.25,000/- with interest @ 7.5% per annum if there is delay of more than 30 days in payment.

3 The main reason given by the Applicant for delay of 156 days that they have to take opinion of legal cell as well as concerned officer. Hence, there is delay in filing FIR.

4 In respect of this contention, the learned Counsel for the Appellant relied on paragraphs 4, 5 and 6 of the Civil Application. She submits that they have good chance of success in the present matter. She submits that Respondent Claimant filed fake policy. Hence, they are not liable to pay any compensation to the Claimant. She submits that if delay is not condoned, irreparable loss will be caused to the Applicant.

5 Bare reading of the Civil Application shows that Applicant failed to disclose the sufficient cause for condonation of 156 days delay in filing First Appeal. It is to be noted that main reason given by the Applicant that they have to take opinion from several departments before filing First Appeal on behalf of Insurance Company. That cannot be a good ground for condonation of 156 days delay in filing First Appeal and that also challenging the order by which the Tribunal directed Applicant to pay sum of Rs.25,000/- under Section 140 of M.V. Act.

6 It is to be noted that this court in the matter of **Special Land Acquisition Officer & Anr. Vs. Jose Prazeres de Piedade Pinto 2006(2) BCR 773** held that the delay caused because of movement of file from one table to another cannot be considered as a good ground for delay. Para 12 of the said judgment reads thus:

12. The delay merely because it has occasioned in a matter relating to land acquisition case involving public money, condonation thereof cannot be construed as a matter of right to the Government. In case of delay, it is necessary for the Government machinery to furnish the necessary satisfactory explanation for such delay. In case the delay has occurred on

account of either wilful acts on the part of the concerned officer/ s or for any other reason, which could even defeat the rights of the Government or the acquiring body in relation to the provision for appeal against the award passed by the Reference Court, the mere statements regarding the movement of the file from one office to the other office, from one table to the other table cannot be construed as satisfactory explanation for the delay in filing the appeal. In the case in hand, as already observed above, merely stating that the file moved from one office to another, either for opinion or for preparation of financial report, no explanation has been placed on record as to why it took particular number of days for obtaining either the opinion of the Law Department or for preparing the financial implication report by the Executive Engineer. It apparently discloses total failure on the part of the applicants in explaining the cause for the delay of 281 days in filing the appeal as well as 51 days' delay in filing the application for condonation of delay.

7 The apex court in the matter of **Office of the Chief Post Master General & Ors. Vs. Living Media India Ltd. & Anr. 2012 ALL SCR 892** held that the delay attributable to impersonal machinery and bureaucratic methodology cannot be a ground for condonation of delay. Para 13 of the said judgment reads thus:

“13. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department

for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

8 In view of the above mentioned facts and the law declared by this court as well as the apex court, I do not find any substance in the Civil Application.

9 Hence, the following order is passed:

a) Civil Application for condonation of delay is rejected.

b) In view of rejection of Civil Application for condonation delay, nothing survives in the First Appeal as well as Civil Application for stay.

c) Hence, registration of First Appeal stands rejected and Civil Application for stay also stands dismissed as infructuous.

(K.K.TATED, J.)