

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2671/2009
IN
FIRST APPEAL (STAMP)NO.14526/2009

The United India Assurance Co.Ltd. ... Appellant.
V/s.
Vilas Pandurang Tamore & Ors. ... Respondents.

Mr.S.S. Vidyarthi, advocate for applicant .
Mr.T.J. Mendon,advocate for respondent Nos.1 and 2.

CORAM: K.K. TATED, J.

DATED : JUNE 17, 2019

P.C. :

Heard learned counsel for the parties.

2. Though the other respondents are served, no one appeared on behalf of them.

3. By this civil application, applicant is seeking condonation of 2 years 116 days delay in filing first appeal, challenging judgment and award dated 29.11.2006 passed by Motor Accident Claim Tribunal, Bombay in M.A.C.Application No.3658/1994.

4. Learned counsel for applicant submits that, advocate on record who appeared in trial, failed and neglected to apply for the certified copies of the judgment and award immediately. Said advocate failed and neglected to inform the decision of

the trial court. Hence, applicant directed their officer to go and make inquiry. At that time, the concerned officer learnt that the trial court passed judgment and award holding that, respondent is entitled for compensation. Hence, with the help of panel advocate, concerned officer made an application for certified copies of judgment and award on 09.01.2009 and same was delivered on 2.2.2009. Thereafter, the concerned officer took some time to take decision whether company should file appeal or not. Hence, there is delay on the part of applicant to file present first appeal before this court. He submits that in connected first appeal, this court already condoned the delay in filing first appeal. Hence, in the interest of justice, this court be pleased to condone delay in filing first appeal.

5. On the other hand, learned counsel for respondent/claimant vehemently opposed the application. He submits that applicant has not shown sufficient cause for condonation of inordinate delay in filing first appeal.

6. Considering the submissions made by learned advocate for applicant, reasons disclosed in civil application, in connected first appeal delay is already condoned, and because of mistake on the part of Advocate, applicant should not suffer, I am satisfied that applicant has made out case for condonation of delay, but at the same time applicant has to pay cost of Rs.2500/-.

7. Hence, the following order.

- a) Delay in filing first appeal is condoned.
- b) Applicant to pay cost of Rs.2,500/-
- c) Cost to be deposited in Kirtikar Law Library, High Court, Main building, Mumbai on or before 12.07.2019 and place on record receipt thereof failing which, the civil application shall stand dismissed without referring back to the court.
- d) Civil application stands disposed of.

(K. K. TATED, J.)