

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2668/2009
In
FIRST APPEAL (STAMP)NO.14535/2009

United India Assurance Co. Ltd. ... Applicant.
Vs.
Ganesh E. Akre & Anr. ... Respondent.

Mr.SV Vidyarthi, advocate for applicant.
Mr.T.J. Mendon, advoate for respondent.

CORAM : K.K.TATED, J.
DATED : JUNE 17, 2019.

P.C.

Heard learned counsel Mr.S.M. Vidyarthi for applicant
and Mr.T.J. Mendon for respondent no.1.

2. Though other respondents are served, no one appeared
on behalf of them when the matter is called out.

3. By this civil application, applicant is seeking condonation
of 2 years 118 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.T. Application
No.3657/1994.

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 learned 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.)

