

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION No. 1918 OF 2018
IN
FIRST APPEAL (ST) No. 23901 OF 2017

Mumbai Municipal Corporation
Through General Manager BEST
UndertakingApplicant

In the matter between

Mumbai Municipal Corporation
Through General Manager BEST
UndertakingAppellant

Vs.

Smt. Vishaka Makrand Kale and Ors.Respondents

Ms. Kavita Anchan i/b. M.V. Kini & Co. for Applicant/Appellant
Mr. Shailesh S. Pathak for Respondent Nos. 1 to 5

CORAM: K.K. TATED, J.

DATED : JUNE 11, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this civil application, the Applicant is seeking condonation of 311 days' delay in filing the first appeal, challenging the judgment and order dated 9th August, 2016 passed by the Commissioner for Employees Compensation & Judge, 6th Labour Court, Mumbai in Application (WCA) No. 389/B-85/2014, holding that the Respondents/Original Claimants are entitled sum of Rs.3,84,280/- by way of compensation with interest @ 12% p.a. from the date of application i.e. 11th April, 2008.
3. Learned counsel Ms. Kavita Anchan for the Applicant submits

that because of the procedure before filing appeal, they have to take approval from several departments, hence, there is a delay in filing First Appeal. He submits that in the interest of justice, this Court be condoned the delay and matter to be heard on its own merits. He submits that they have good chance of success in the present proceeding.

4. On the other hand, learned counsel Mr. Shailesh Pathak for the Respondents vehemently opposed the present civil application. He submits that the Applicant has not shown sufficient cause for condonation of inordinate delay of 311 days. He further submits that apart from that, as per Section 30 of the Employees Compensation Act, 1923, it is mandatory that at the time of filing of the appeal, the Appellant have to deposit the entire amount and place on record the certificate to that effect. He submits that in the present proceedings, the Applicant has not placed the said certificate on record. Hence, first appeal itself is not maintainable.

5. Considering the submissions made by learned counsel for the Applicant and the averments made in the civil application, I am satisfied that the Applicant has made out a case for allowing this civil application, but at the same time, they have to comply Section 30 of the Employees Compensation Act, 1923 without that the first appeal cannot be heard.

6. Hence, following order:

ORDER

(A) Delay in filing the First Appeal is condoned.

- (B) Applicant to comply Section 30 of the Employees Compensation Act, 1923 on or before 5th July, 2019 and place on record the certificate to that effect, failing which, civil application itself shall stand dismissed without referring back to the Court.
- (C) Civil Application stands disposed of accordingly.

(K. K. TATED, J.)