

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO. 680 OF 2017

WITH

CIVIL APPLICATION NO. 681 OF 2017

IN

FIRST APPEAL (ST.) NO. 27443 OF 2016

Reliance General Insurance Company Ltd. .. Applicant

Vs.

Kumar Kavya Ashok Salve (Minor)

through Ashok Laxman Salve & Anr.

.. Respondents

Ms.Kalpana Trivedi, Advocate for applicant.

CORAM : N.J. JAMADAR, J.

DATE : 13TH MARCH 2019

P.C.

CIVIL APPLICATION NO. 680 OF 2017

1. Heard the learned counsel for the applicant.
2. This is the application for condonation of delay of 2 years and 222 days in preferring the appeal against the award dated 30th July 2013 passed by the learned Member, Motor Accident Claims Tribunal, Mumbai, whereby the learned Member had directed that the opponents, including the present applicant, to jointly and severally pay compensation of Rs.36,400/- inclusive of the compensation awarded under Section 140 of the Motor Vehicles Act, 1888 (hereinafter referred to as 'the Act') along with interest @ 7.5% per annum from the date of the application till realization.

3. Perused the application. The only reason assigned for condonation of the huge delay 2 years and 222 days is the administrative lapses. It is averred that due to office workload, transfer of officers and staffs, awaiting the reports from the investigator and for obtaining opinion from the concerned lawyer, there was delay in preferring the appeal.

4. It is true that the Court ordinarily leans in favour of the condonation of delay as it is in the interest of justice that a *lis* should be adjudicated on merits so as to advance substantial justice. However, the case at hand presents a peculiar situation. The learned Member has awarded compensation of Rs.36,400/- only. The impugned award was passed on 30th July 2013. The reasons assigned by the applicant for condonation of delay are omnibus in nature. There is no justifiable explanation for the inordinate delay. Bald assertions in the nature of administrative lapses are made.

5. The applicant further avers in the application that it was a case of breach of the conditions of insurance. If that be the challenge, it is now well recognized that the insurer will have to first satisfy the statutory liability and then recover the said amount from the insured, if the case is so made out.

6. Having regard to the totality of the circumstances including the

meagre amount awarded by the learned Member under the impugned Award and no satisfactory reason to explain the inordinate delay, issuance of notice to the respondents-claimants would add insult to the injury.

7. Thus, I am inclined to hold that the applicant has not made out a sufficient cause for condonation of delay of 2 years and 222 days in preferring the appeal.

8. Hence, the civil application stands rejected.

[N. J. JAMADAR, J.]