IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CIVIL APPLICATION NO. 4003 of 2019

In F/FIRST APPEAL NO. 29300 of 2019

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NATIONAL INSURANCE CO LTD

Versus

THE ORIENTAL INSURANCE CO LTD

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Appearance:
MR VIBHUTI NANAVATI(513) for the Applicant(s) No. 1
MR MAULIK J SHELAT(2500) for the Respondent(s) No. 1
MR. VISHAL P THAKKER(7079) for the Respondent(s) No. 5
PRADEEP K THAKKER(9171) for the Respondent(s) No. 5
RULE SERVED(64) for the Respondent(s) No. 2,4
RULE UNSERVED(68) for the Respondent(s) No. 3

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CORAM: **HONOURABLE MR. JUSTICE N.V.ANJARIA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 17/12/2020

ORAL ORDER
(PER : HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI)

1. Heard Mr. Vibhuti Nanavati, learned advocate for the applicant.

2. By way of present application, the applicant has prayed for condonation of delay of 256 days in preferring the first appeal.

3. The applicant has explained the delay in paragraphs 3 and 4 of the application, from which it is borne out that after the trial Court pronounced the judgment on 2.7.2018 the decree was drawn on 29.9.2018. The certified copies were applied on 20.12.2018 and they

were made ready for delivery on 21.12.2018. The last date to prefer first appeal before this Court was 28.12.2018. It is stated that attending advocate of the Insurance Company forwarded certified copies of the judgment and decree to the Divisional Office on 28.2.2019. The Divisional Office prepared Special Claim Note on 19.3.2019 and forwarded the papers to the Regional Office for appropriate instructions. Accordingly the Regional Office sought entire record and proceedings of the Special Civil Suit and policy of insurance from the Divisional Office as the decree has been rendered against the Insurance Company wherein the learned Trial Court has not mentioned the Insurance Policy Number. It was found from the judgment that policy of insurance was not placed on record and, therefore, after due scrutiny of the record and proceedings the matter was necessitated. There was notice of execution from the Trial Court on 22.2.2019. The attending advocate was immediately instructed to appear before the Trial Court. In the meantime, the applicant was unable to trace the papers due to audit work and settlement of matters during the National Lok Adalat. Thereafter immediately papers were forwarded to the Regional Office at Ahmedabad on 13.8.2019 and file was forwarded to the advocate for opinion. It was accordingly

opined to prefer first appeal before the High Court of Gujarat on 28.8.2019. The applicant thereafter instructed the advocate to file first appeal before this Court through email on 4.9.2019.

4. The delay of 256 days in preferring first appeal is satisfactorily explained and, therefore, this Court deems it fit to condone the delay.

5. Accordingly the delay of 256 days occurred in filing the first appeal is condoned and the application for condonation of delay is allowed. Rule is made absolute in the above terms.

(N.V.ANJARIA, J)

(VAIBHAVI D. NANAVATI,J)

Pallavi/kksaiyed