

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

949 CIVIL APPLICATION NO.12385 OF 2019
IN FAST/22041/2019

M/S SHRIRAM GENERAL INSURANCE CO. LTD., THROUGH ITS MANAGER
VERSUS
SYED ASMABEGUM GAFOOR AND OTHERS

...

Advocate for Applicant : Shri Upadhye Vinayak Narayan
Advocate for Respondent nos.1 to 5 : Shri Panchal Shrinivas H.
Respondent no.6 served.

CORAM: V.L. ACHLIYA, J.

DATE: 14.02.2020

PER COURT :

1] The applicant has moved this application seeking condonation of 118 days delay in filing appeal for the reasons set out in detail in the application.

2] Heard learned counsel for the applicant and respondent nos.1 to 5. Respondent no.6 though served is absent.

3] In brief, it is the contention of learned counsel for the applicant that the delay caused in filing appeal cannot be termed as deliberate and intentional. It is submitted that the delay was caused due to considerable time spent in seeking approval from the higher office. After the proposal was made for filing appeal, the matter was scrutinized and forwarded to divisional office at Pune. From the divisional office at Pune, the file was sent to the office of

insurance company at Jaipur. After seeking legal opinion in the matter, it was decided to prefer appeal. In the process, delay of 118 days has been caused. It is submitted that the deceased was riding motorcycle, gave dash to stationary vehicle and died in the accident. While assessing compensation, the Tribunal has not considered the fact that the accident occurred solely due to negligence on the part of the deceased. So also the case of contributory negligence has not been considered. The applicant – appellant has good case to succeed on merits. In case delay is condoned, no prejudice would be caused to other wise as the appeal would be decided on its own merits. Learned counsel further submits that the applicant has deposited the amount in terms of award.

4] Learned counsel for the respondent nos.1 to 5 opposed the application with contention that the delay has not been properly explained. Respondent no.6 though served failed to appear.

5] On due consideration of the submissions advanced in the light of unchallenged and uncontroverted pleadings made in the application assigning the cause for condonation of delay, I am of the view that the delay has been properly explained. No prejudice would be caused to the other wise as ultimately the case will be decided on its own merits. On the contrary, if delay is not

condoned, there is every likelihood that serious prejudice may be caused to the applicant - appellant. I am, therefore, inclined to allow the application.

6] Accordingly, the application is allowed in terms of prayer clause (A). Delay condoned. Appeal be registered and placed for admission on 16.4.2020.

(V.L. ACHLIYA, J.)