IN THE HIGH COURT OF BOMBAY AT GOA

MISC. CIVIL APPLICATION NO.857 OF 2019
&
STAMP NUMBER (APPLN.) NO.1808 OF 2019
IN
STAMP NUMBER (MAIN) NO.1204 OF 2018
AND
MISC. CIVIL APPLICATION NO.858 OF 2019
&
STAMP NUMBER (APPLN.) NO.1809 OF 2019
IN
STAMP NUMBER (MAIN) NO.1206 OF 2018

BAJAJ ALLIANZ GENERAL
INSURANCE CO. LTD.,
THR. ITS AUT. SIGN., DIP PATEKAR …. APPLICANT

VERSUS

PRAJESH KRISHNANATH
PARAB & 2 ORS. …. RESPONDENTS

Shri Amey Kakodkar, Advocate for the Applicant.

Coram:- DAMA SESHADRI NAIDU, J.

Date:- 22 March 2021

ORAL ORDER:

The first respondent secured an award of compensation on 23.10.2017 from MACT, Panjim, North Goa. It was against the appellant-Insurance Company, the second respondent-owner, and the third respondent-driver. Aggrieved, the Insurance Company appealed to this Court, with some delay. That was on 22.03.2018.

2. Eventually, on 30.11.2018, the Registry gave two weeks' time to the Insurance Company to cure the defects in the appeal, and that period ended on 18.12.2018. But the Insurance Company did not cure the defects; so the appeal stood dismissed at the threshold.

3. This Court's Appellate Side Rules require the party to file a revision against such a dismissal in seven days. And that seven-day period, too, ended on 21.12.2018. Nevertheless, on 04.09.2019, the Insurance Company filed this Revision with a delay of 154 days.

4. The first and the second respondents had the notice in the usual course, and the third respondent through substituted service: publication. None appeared.

5. The learned counsel for the appellant submits that one day the previous counsel returned all the files to the Insurance Company. Thus, he ceased to be a counsel for the Insurance Company. Later, the Insurance Company handed over all the files to the present counsel in April 2019. After going through the records, the present counsel realised that this matter was dismissed at the threshold because of non-compliance with the Registry's objections.

6. According to the learned counsel, the mistake on the Insurance Company's part is *bona fide*. Unless the delay is condoned and the Insurance Company is given another opportunity to cure the defects, public interest will suffer.

7. To begin with, the Court cannot appreciate the manner the Insurance Company sought to conduct this appeal. But I reckon, as pointed out by the appellant's counsel, the delay is not inordinate. Besides, any technical dismissal of the Insurance Company's appeal may affect the public interest, too. Adjudication on merits is the norm; adjudication on technicalities is the exception.

I, therefore, condone the delay and allow this revision application. The appellant will comply with the Registry's objections in two weeks from the date this order is uploaded.

DAMA SESHADRI NAIDU, J.

NH