

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 281 OF 2021
IN
FIRST APPEAL (ST.) NO. 96939 OF 2020

Royal Sundaram Alliance Insurance
Company Limited through its Manager

.Applicant /
Appellant

Vs.

Prashant Prakash Rasal and Ors.

.Respondents

None present.

CORAM : ABHAY AHUJA, J
DATE : 4TH OCTOBER 2021

P. C.

1. None for the parties.
2. Registry note submits that since the limitation had expired in the lockdown period, the first appeal is filed in time and the application for condonation of delay does not survive.
3. By this application, the insurance company has sought condonation of delay of about 245 days in preferring appeal under Section 173 of the Motor Vehicles Act, 1988 (the “Act”) against the judgment and award dated 18th December 2019 passed in M.A.C.T Application No. 61 of 2016 by MACT, Ratnagiri.

4. It is observed that the judgment and award was passed on 18th December 2019. The period for filing appeal under Section 173 of the Act is 90 days. It is stated in paragraph 2 of the application that the certified copy application in respect of the judgment and award was made on 18th January 2020 and the certified copy was ready for collection on 30th January 2020, which is stated to be collected on 1st February 2020 by advocate for the appellant appearing in the Trial Court. Evidently the 90 days period would expire around end of March 2020. It is also stated in paragraph 2 of the said application that appeal has been filed on 24th November 2020. This is during which the COVID-19 Pandemic had been declared.

5. Due to the COVID-19 Pandemic, the Hon'ble Supreme Court had taken *suo moto* cognizance of the situation arising from difficulties that might be faced by litigants across the country in filing petitions/application/suits/appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central or State) and by an order dated 23rd March 2020, the Hon'ble Supreme Court extended the period of limitation with effect from 15th March 2020 till further orders, which order came to be extended from time to time. Further, vide order dated 8th March 2021 in *Suo Moto* Writ Petition (Civil) No. 3 of 2020 as

modified by order dated 23rd September 2021, in miscellaneous application no. 665 of 2021 in SMW(C) No. 3 of 2020, the Hon'ble Supreme Court has given directions in paragraph 8 thereof which are quoted as under:-

“8. Therefore, we dispose of the M.A. No. 665 of 2021 with the following directions:-

I. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 02.10.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2021, if any, shall become available with effect from 15.03.2021.

II. In cases where the limitation would have expired during the period between 15.03.2020 till 02.10.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.

III. The period from 15.03.2020 till 02.10.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

IV. The Government of India shall amend the guidelines for containment zones, to state.

“Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications, including for legal purposes, and educational and job-related requirements”

6. The above directions have been passed by the Hon'ble Supreme Court in exercise of power under Article 142 read with Article 141 of the Constitution of India and being law of the land are binding on all Courts/Tribunals and Authorities.

7. In the case of petitioner, the period of limitation ended after 15th March 2020 and the appeal came to be filed before 2nd October 2021 which period has clearly been excluded.

8. In this view of the matter, the instant appeal has been filed during the period of operation of the *Suo Moto* orders which exclude the period from 15th March 2020 to 23rd November 2020 and accordingly, the same is within time.

9. Therefore by operation of law, nothing survives in the condonation of delay application. The Registry is correct in making this submission. The civil application is accordingly disposed as infructuous.

10. List the first appeal for admission on 18th October 2021.

(ABHAY AHUJA, J.)