

Chitra Sonawane

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

CIVIL APPLICATION NO.113 OF 2019

IN

FIRST APPEAL [STAMP] NO.31013 OF 2018

New India Assurance Co.Ltd.]... Applicant.

Vs.

Dr.Mandakini S. Pansare & Anr.]... Respondents.

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Mr.Himanshu B. Takke i/b Milind More for the applicant in CAF no.113/2019 and for appellant in F.A.(st)31013/2018 and for respondents in I.A.no.1584/2020.

Mr.Robin Fernandes i/b Ms Priyanka H. Chavan for respondent no.1 in CAF no.113/2019, F.A.(St)31013 of 2018 and for applicant in I.A. No.1584/2020.

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED :11TH MARCH, 2021.

P.C.

1. While challenging the judgment and award, passed by the M.A.C.T., Pune, on 10th April 2018, delay of 72 days has been caused on the part of the insurer.

2. At the outset, the learned Counsel for the applicant contends that after obtaining certified copy of the judgment and award on 18th May 2018, due to internal correspondence, as well as seeking approval from higher authorities, considerable time has been consumed. Even the applicant is required to take approval for

releasing payment towards the Court fees, which has further added a few more days and therefore, the learned Counsel tries to justify the delay.

3. On the other hand, the learned Counsel for the claimant while strongly objecting the prayer, contends that there are no grounds stated in the application nor there is any document in support of internal communication as alleged by the applicant. It has been brought to my notice that the appeal alongwith application for condonation of delay came to be filed only after execution proceedings have been filed in the tribunal by the claimant on 25th September 2018.

4. Apparently, it is evident that after filing the execution proceedings in the month of September, the appeal alongwith application came to be filed in this Court on 5th October 2018. Evenif, it is taken note of that due to internal communication and seeking approval of higher authorities, some time is required to be spent, yet, it can not be lost sight of the fact that when law of limitation provides certain period to approach the Court, the appellant/insurer ought to have ensured that the appeal is filed within limitation. Nevertheless, it is always advisable getting the matters adjudicated upon merits instead of going into technicalities. However, looking to the age of the claimant, who is a widow and the only survival after death of her husband, some cost needs to be imposed upon the insurer/applicant. In the circumstances, the application for condonation of delay is allowed subject to cost of Rs.4000/-.

5. Registry to register the appeal after deposit of the cost in the Registry within two weeks.
6. Application stands disposed of.

[PRITHVIRAJ K. CHAVAN, J.]