

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Civil Application (O) No.268/2021

In

M.C.A. St. No.4503/2021

In

First Appeal No.993/2017 (D)

(Bajaj Allianz General Insurance Co. Ltd V Smt. Chandrakala Dobale
and others)

Office Notes, Office Memoranda of Coram,
orders
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's

Shri D.N. Kukday, Adv for appellant.

CORAM : S.M. MODAK, J.

DATE : 25-03-2021

Heard learned Advocate Shri Kukday for the appellant.

2. The appeal of the Insurance Company was dismissed as per the order dated 01-02-2019. It was due to non filing of paper book within the period of four months. The appellant in fact does not want to prosecute the appeal and wants to withdraw the appeal. They have deposited the deretal amount to the tune of Rs. 9,12,586/- and the respondent nos. 1 and 2/original claimants were permitted to withdraw 50% of the amount.

3. The appellant wants to restoration of the appeal because in fact they are interested for refund of the Court Fee. There is a delay of 593 days in preferring an appeal.

4. In fact, notice could have been issued on the restoration as well as on delay condonation application. But in view of the desire expressed for withdrawal of the appeal and in view of the reasons stated in the application

I think both the applications can be granted without issuing notice and I am convinced of the reasons stated in the application. Hence, the order :-

ORDER

- (a) The application for condonation of delay of 593 days is allowed.
- (b) The application for restoration of the appeal is allowed by setting aside the order dated 01-02-2019.
- (c) First Appeal No.993/2017 is restored to the file.

First Appeal No.993/2017 along with
Pursis St. No.04/2021

The appellant is desirous of withdrawing the appeal. They have already deposited the decretal amount.

This Court has permitted the respondent nos. 1 and 2 to withdraw 50% of the amount as per the order dated 18-06-2018. The appellant consents for withdrawal of the remaining amount. Hence, the order :-

ORDER

- (a) The appeal is disposed of as withdrawn.
- (b) The appellant be refunded the Court fee as per the Rules.
- (c) The remaining amount from the deposited amount of Rs. 9,12,586/- (after considering 50% withdrawal) be returned to the respondent nos.1

and 2 along with accrued interest as per the judgment of the Claims Tribunal.

(S.M. Modak, J.)