

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

**INTERIM APPLICATION NO. 2551 OF 2021
IN
FIRST APPEAL (ST) NO. 16713 OF 2021**

The New India Assurance Co. Ltd.
Thane

...Applicant/Appellant

Versus

Smt. Jasoda Wd/o. Prabhu
Karamchandani & Ors.

...Respondents

...

Ms. Jyoti Vajpayee, for the Applicant/Appellant.

Mr. Sagar Paspohe, a/w Adv. Surbhi Agrawal for the Respondents

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 4th JULY, 2022.

P. C. :-

1. Mr. Sagar Paspohe, learned Counsel waives service on behalf of the Respondent Nos. 1 to 7.
2. By this Application the Applicant-Insurance Company has sought to condone the delay of 4 years and 214 days in filing an Appeal under Section 173 of the Motor Vehicles Act.
3. Heard, learned Counsel for the Applicant and Respondents and perused the records.

4. The short point falling for consideration is whether the Applicant has made out sufficient cause to condone the inordinate delay of 4 years 214 days in filing the appeal.

5. A perusal of records reveal that the Claim Petition No. 7 of 2001 (old MACP No. 56 of 1985) was allowed by the Claims Tribunal by judgment dated 26th September, 2016. The Applicant-Insurance Company was duly represented by an advocate before the Claims Tribunal. It is the case of the Applicant that they were not informed about the impugned Judgment and Award and that they learnt about the same only on 8.11.2019 on receipt of notice in the Execution Proceedings filed by the Respondent-Claimants.

6. In para 5 of the Application it is stated that on receipt of the said notice the Applicant-Insurance Company appointed an advocate for obtaining the copy of the Application and all other relevant documents. The advocate engaged by the Applicant applied for certified copy of the impugned Judgment and Award on 19.11.2019. The advocate has forwarded the copy to the Applicant on 27/01/2020. The Application for condonation of delay was filed on

04.09.2021.

7. The principles regarding condonation of delay are well settled. In *University of Delhi vs. Union of India and Others (2020) 13 SCC 745* the Hon'ble Supreme Court after considering the decisions in *Collector, Land Acquisition, Anant Nag and Anr. Vs. Katiji and Ors. 1987, (2) SCC 107, M/s. Dehri Rohtas Light Railway Company Ltd. vs. District Board, Bhojpur and Ors. (1992) 2 SCC 598* and *Post Master General and Ors. vs. Living Media India Limited and Anr. 1992(3) SCC 563*, has held thus:-

20. From a consideration of the view taken by this Court through the decisions cited supra the position is clear that, by and large, a liberal approach is to be taken in the matter of condonation of delay. The consideration for condonation of delay would not depend on the status of the party namely the Government or the public bodies so as to apply a different yardstick but the ultimate consideration should be to render even handed justice to the parties. Even in such case the condonation of long delay should not be automatic since the accrued right or the adverse consequence to the opposite party is also to be kept in perspective. In that background while considering condonation of delay, the routine explanation would not be enough but it should be in the nature of indicating "sufficient cause" to justify the delay which will depend on the backdrop of each case and will have to be weighed carefully by the Courts based on the fact situation. In the case of Katiji (Supra) the entire conspectus relating to condonation of delay has been kept in focus. However, what cannot also be lost sight is that the consideration therein was in the background of

dismissal of the application seeking condonation of delay in a case where there was delay of four days pitted against the consideration that was required to be made on merits regarding the upward revision of compensation amounting to 800 per cent.”

8. Reliance is also placed on the decision of ***Majji Sanemma @ Sanyasirao Vs. Reddy Sridevi and Ors. 2022 (2) Mah.L.J. 9*** wherein the Hon'ble Supreme Court has reiterated the principles laid down in the previous decisions that in the absence of reasonable, satisfactory or appropriate explanation, the delay is not to be condoned lightly. The expression 'sufficient cause' cannot be liberally interpreted if negligence, inaction or lack of bonafides is attributed to the party and that the Courts cannot enquire into belated and stale claims on the ground of equity.

9. In the instant case, the delay is of 4 years 214 days. The explanation for the delay is that the panel Advocate had not informed the Applicant about the judgment. Even if the said reasons considered to be genuine, the averments in the application indicate that the Applicant had learnt about the judgment on 18/11/2019. It is stated that the Advocate for the Applicant had applied for certified copy of the judgment on 19/11/2019 and the Advocate sent the certified copy to

to the Applicant on 27/01/2020. The application for condonation of delay was filed on 04/09/2021. No explanation has been given for the delay in collecting the copy or forwarding the copy to the Applicant. Apart from the routine explanation of procedural delay, no cogent reasons have been given to explain the delay from January 2020 till September 2021. The reasons stated in the application only indicate negligence and inaction on the part of the Applicant, which certainly cannot be construed as 'sufficient cause'.

10. Under the circumstances, the Application is dismissed. Consequently, registration of appeal is rejected. Pending applications stand dismissed. The compensation deposited by the Applicant-Insurance Company be paid to Respondents-Original Claimants with interest accrued thereon.

(SMT. ANUJA PRABHUDESSAI, J.)