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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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CIVIL APPLICATION NO.1895 OF 2018
IN
FIRST APPEAL (STAMP) NO.33184 OF 2017

Cholamandalam M.S. General Insurance Co. Ltd. ...Applicant

V/s.

Shubhangi S. Gaikwad ...Respondent

Ms.Dhanashree S. Padwal i/b Mr.S.R. Padwal for the Appellant.

Mr.Yogesh Pande for Respondent No.1 and for the Applicant in IA
No.16793 of 2023.

CORAM : RAJESH S. PATIL, J.
DATE : 1ST NOVEMBER, 2023.

P.C. :-

1. This Civil Application is filed by the Insurance Company for
condonation of delay of 272 days in filing the First Appeal.

2. Un-number paragraph 3 of the Civil Application reads as
under -

“That, the judgment was delivered on
10.11.2016 and the certified copy was applied
for on 15.11.2016 and the same was ready and
delivered to the Appellants on 03.12.2016. The
Appellants thereafter referred the file for legal
opinion. The regular Advocate appearing for
the Appellants showed his inability to conduct

the appeal. The Appellants thereafter had to search for new Advocate and the same consumed time and hence, there is delay of 271 days in filing the present appeal.”

3. Therefore, the only reason given by the Applicant – Insurance Company is that even though certified copy of the impugned award was available on 3 December 2016, the First Appeal was filed only on 2 November 2017 i.e. 11 months. The reasons for such delay has been stated that the Insurance Company referred the file for legal opinion. However, their lawyer showed inability. Thereafter they were searching for new lawyer, hence the delay. It can be seen from the submissions made in un-number paragraph 3. No dates are specified as to when their lawyer showed his inability to conduct the matter and as to when they took steps to appoint new lawyer. The Appellant is the Insurance Company where day to day they are filing appeals or are defending the Appeals in this Court. Therefore, it is difficult to believe that they had to search for a new lawyer to file Appeal.

4. The Advocate for the Appellant – Insurance Company was not able to show any other grounds for condoning the delay.

5. Supreme Court in the case of *Esha Bhattacharjee V/s. Managing Committee of Raghunathpur Nafar Academy*¹ and in

¹ (2013) 12 SCC 649

the case of **P.K. Ramchandran V/s. State of Kerala²**, that if there is no satisfactory reasons given in the condonation delay application, the same should be rejected.

6. After going through the contents of the Civil Application and hearing the advocate for the Appellant – Insurance Company and taking into consideration the law laid down by the Supreme Court, no ground is made out to condone the delay. Therefore, the Civil Application is dismissed.

WITH
FIRST APPEAL (STAMP) NO.33184 OF 2017

Cholamandalam M.S. General Insurance Co. Ltd.	...Applicant
V/s.	
Shubhangi S. Gaikwad	...Respondent

AND
INTERIM APPLICATION NO.16793 OF 2023
IN
FIRST APPEAL (STAMP) NO.33184 OF 2017

Shubhangi S. Gaikwad	...Applicant
V/s.	
Cholamandalam M.S. General Insurance Co. Ltd.	...Respondent

1. As the Civil Application for condonation of delay has been dismissed, the First Appeal also stands dismissed. Interim Application No.16793 of 2023 for withdrawal stands disposed of.

(RAJESH S. PATIL, J.)

2 (1997) 7 SCC 556