

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

CIVIL APPLICATION (CAF) NO.3741 OF 2019
IN
FIRST APPEAL STAMP NO.9460 OF 2019

Shriram General Insurance Col Ltd
Vs.
Gajanan Damodhar Pethe and others
with
FIRST APPEAL NO.1249 OF 2019

The New India Assurance Co. Limited through its Divisional Manager, Amravati
Vs.
Gajanan s/o Damodhar Pethe and others

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

Court's or Judge's orders

CIVIL APPLICATION (CAF) NO.3741 OF 2019

Mr. H. R. Verma, Advocate for appellant.
Mr. B. Suchak, Advocate for respondent No.1.
Mr. Amol P. Gase, Advocate for respondent No.3.
Mr. M. B. Joshi, Advocate for respondent No.4.

FIRST APPEAL NO.1249 OF 2019

Mr. M. P. Joshi, Advocate for appellant.
Mr. B. Suchak, Advocate h/f Mr. D. S. Khushlani, Advocate for respondent No.1.
Mr. Amol P. Gase, Advocate for respondent No.3.
Mr. H. N. Verma, Advocate for respondent No.6.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 08/02/2023

CIVIL APPLICATION (CAF) NO.3741 OF 2019

1. Leave is granted to the appellant to carry out the amendment which is in the nature of typographical mistake.

2. By preferring this application, the appellant is seeking condonation of delay of 304 days which is caused in filing the appeal.

3. As per the contention of the appellant, the appeal is preferred against the impugned judgment and order dated 21.03.2018 passed by the Member, Motor Accident Claims Tribunal, Achalpur. As per the contention of the appellant, the impugned judgment and order passed by the Member, Motor Accident Claims Tribunal, Achalpur is in utter disregard and violation of principles of natural justice. The claim petition was decided without giving any opportunity to the Insurance Company to contest the matter on merits, and therefore the appellant needs to challenge the said order. However, for filing the appeal, the appellant has to obtain the legal opinion and said legal opinion needs to be forwarded to the concerned department at the head office at Jaipur. On administrative grounds and for obtaining the approvals the appeal was not filed in time, and therefore delay of 304 days is caused in filing the appeal. The delay is not intentional one. Taking into consideration the facts and circumstances and the substantial question of law is involved in the present case. The appellant be permitted to litigate the cause on merits by condoning the delay.

4. The said application is strongly opposed by the learned Advocate for the respondent No.3 and the learned Advocate for the respondent No.4, on the ground that delay is not properly explained, hence delay condonation application deserves to be rejected.

5. Heard both the sides.

6. Perused the application. Mainly the ground raised in the application is that, the time was consumed in obtaining the necessary approvals and permissions which are to be obtained from head office situated at Jaipur. The said appeal proposal is to be forwarded by obtaining the legal opinions. Thus, the reason mentioned in the application appears to be just and reasonable one. It is well settled that while considering the delay application Court has to consider whether there are reasonable and just reasons mentioned in the application and liberal and pragmatic approach is required to be taken.

7. In view of that considering the appellant is a body constituted and after obtaining the legal opinions only appellant can file appeal by obtaining the appropriate approvals. Thus, delay is for the just and reasonable cause. In view of that, delay of 304 days is hereby condoned.

8. Appeal be registered.

9. Civil Application is disposed of.

FIRST APPEAL NO. _____ OF _____

1. Heard.

2. **Admit.**

3. Call for record and proceedings.

4. The learned Advocate Mr. Suchak, waives notice for respondent No.1.

5. None appears for respondent Nos.2 and 5.

6. The learned Advocate Mr. Gase, waives notice for respondent No.3.

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7. Mr. Joshi, learned Advocate waives notice for respondent No.4.

8. Place the matter for final hearing after four weeks.

(URMILA JOSHI-PHALKE, J.)

Sarkate