

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

CIVIL APPLICATION (CAO) NO.397 OF 2022
IN
FIRST APPEAL NO.44 OF 2019

The Branch Manager, Bharti AXA General Insurance Co. Ltd., Nagpur

Vs.

Hariram s/o Manu Madavi and others

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

Court's or Judge's orders

Mr. A. V. Bhuibhar, Advocate for the appellant.

Mr. Kunal Mirache, Advocate h/f Mr. P. S. Mirache, Advocate for respondent Nos.1
and 2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 13/03/2023

1. This is an application for condonation of delay of 239 days in filing the application for restoration of appeal.

2. As per the contention of the appellant the conditional order was passed by this Court regarding filing of the paper book which was not noted by the learned counsel for the appellant. In view of that, appeal is dismissed for non-filing of the paper book. Inadvertently, the dismissal order is also not noted by the appellant, and therefore delay of 239 days is caused in preferring the appeal.

3. It is further contention of the appellant that when appellant decided to settle the matter before the

Lok-Adalat, he came to know about the dismissal of the matter, and therefore this application is filed.

4. Said application is strongly opposed by the learned Advocate for the respondent Nos.1 and 2 on the ground that delay is not properly explained.

5. In view of the reasons mentioned in the application, which appears to be just and reasonable, delay of 239 days is condoned.

6. Civil Application is disposed of.

Misc. Civil Application Stamp No.7852/2021

1. On filing of the paper book within two weeks, the appeal be restored at its original stage.

2. On failure to file the paper book within two weeks, the earlier order passed will survive.

3. Misc. Civil Application is disposed of.

Civil Application (CAF) No.2800/2022

1. By this application, the respondent Nos.1 and 2 are seeking permission to withdraw the balance decretal amount deposited by the Insurance Company

before this Court.

2. As per the contention of the claimants 60% amount is already withdrawn. However, the respondent Nos.1 and 2 are in need of money for the medical treatment as they are old aged, and therefore they may be permitted to withdraw the decretal amount.

3. Said application is strongly opposed by the appellant on the ground that 60% amount is already permitted to withdraw.

4. In view of the reasons mentioned in the application and considering the respondent Nos.1 and 2 are the old aged persons, who lost their son in the accident and they have no source of income. They are permitted to withdraw the balance amount on usual undertaking.

5. Civil Application is disposed of

(URMILA JOSHI-PHALKE, J.)

Sarkate