

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

**MISC. CIVIL APPLICATION NO.397/2023
IN
FIRST APPEAL NO.1998/2023 (F)**

MANUEL INACIO FERNANDES ... APPLICANT

Versus

DIVYATA GURUNATH NAIK
AND 8 ORS. ... RESPONDENTS

Mr Kaif Noorani, Advocate for the Applicant.
Mr S. Kakodkar, Advocate for Respondents No.1 to 6.
Mr T. Patel, Advocate for Respondent No.8.

CORAM: M. S. SONAK, J.

DATED: 19th JANUARY 2024

P.C.:

1. Heard Mr Noorani for the applicant, Mr Kakodkar for respondents no.1 to 6 and Mr T. Patel for respondent no.8.
2. Record shows that respondent no.9 is duly served. Mr Noorani states that an affidavit of service has been filed regards service on respondent no.7. The affidavit states that attempts were made to serve the seventh respondent but he refused to

accept service. Mr Noorani submits that this amounts to good service.

3. This is an application seeking condonation of delay of 456 days in instituting an appeal against the Award of the Motor Accident Claims Tribunal (Tribunal).

4. The application states that the applicant learnt about the Award only in April 2022 when he received the notice of execution which was levied by the insurance company i.e. the eighth respondent. The application also states that the advocate who was engaged to appear on behalf of the applicant before the Tribunal stopped appearing without any intimation to the applicant. Besides, the application states that the applicant hails from a humble background and was not well-versed with the progress of the claim petition or the execution proceedings.

5. The application also refers to the poor health of the applicant. There are averments in paras 13 and 15. The averments in para 15 are supported by medical records.

6. Mr Kakodkar and Mr Patel opposed the condonation of delay. Mr Patel submits that there is a distinction between the applicant being sick and being bed-ridden. Mr Patel submits that unless an applicant is bed-ridden, no sufficient cause can be said to have been shown.

7. Mr Kakodkar states that the applicant filed his written statement before the Tribunal by engaging an advocate. For some

time the advocate appeared in the matter and then stopped appearing.

8. The contention raised by Mr Patel, with respect, is quite misconceived. Para 15 refers to the stroke which the applicant suffered. There are medical records produced.

9. Mr Kakodkar's contention, in fact, helps the applicant. It is also the applicant's case that he engaged an advocate who, without intimation, stopped appearing on his behalf before the Tribunal. This, to a great extent corroborates by what is now submitted by Mr Kakodkar.

10. Accordingly, a case is made out for condoning the delay. The delay is condoned without any order for costs.

11. Misc. Civil Application No.397/2023 is disposed of.

M. S. SONAK, J.

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