IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.

Civil Application (CAF) No. 3114 of 2023
in
First Appeal St. No. 20156 of 2023

[Reliance General Insurance Co. Ltd. Through its Branch Manager, Central Bazar Road, Nagpur **..vs..** Kalpana Wd/o Manoj Ved and ors.]

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

Mr. A. M. Kukday, Advocate for the applicant
Ms. R. S. Mankar, Advocate h/f Mr. K. P. Mirache, Advocate for respondent nos. 1 to 3
Mrs. Mrunal Naik, Advocate for respondent no. 5

CORAM : ANIL L. PANSARE J.

DATED : 17-04-2024

By present application, the insurance company is seeking to condone delay of 211 days in filing appeal against the judgment and award dated 5-11-2022 passed by the Motor Accident Claims Tribunal, Nagpur in Motor Accident Claim Petition No. 903/2016.

2. The reasons assigned for delay read as under.

"2. The certified copy of the impugned judgment dated 05.11.2022 was applied for on 07.11.2022. The said order was informed to the Insurance Company by the counsel and certified copy was provided. After the examining the same, the relevant papers were forwarded to the regional office of the appellant which is the competent authority for taking the decision regarding the filing of the appeal in the in this case.

3. It was decided by the competent authority that the appeal should be preferred against the impugned judgment and the papers were forwarded to the counsel at Nagpur who drafted the Memo of Appeal and thereafter sent the memo for approval to the

> *competent authority and the appeal is being filed at the earliest possible. However, in the process a delay of 211 days has been occasioned is bonafide and on the account of time consume in completing the procedural requirement and the consideration of the relevant papers by the competent authority of the appellant."*

3. As could be seen, the applicant states that the judgment was passed on 5-11-2022. The applicant had applied for certified copy on 7-11-2022. When was certified copy obtained is not disclosed. When was judgment brought to the notice of insurance company is not disclosed. When was relevant papers forwarded to the regional office is not disclosed. When did competent authority take a decision to prefer appeal is not disclosed. When were papers forwarded to counsel at Nagpur to draft the appeal memo is also not disclosed. Thus, there is absolutely no justification given by the applicant to condone the delay.

4. Learned counsel for the applicant submits that this is a procedural delay and, therefore, liberal approach be taken.

5. For taking liberal approach, the applicant ought to show that despite diligent efforts, the appeal could not be filed because of certain procedural formalities which were beyond its control. In the present case, the diligence is completely missing. The applicant has not shown any cause, much less, sufficient cause to condone delay. There is thus no merit in the application. The application is accordingly rejected.

Civil Application (CAF) No. 1150 of 2024

6. By present application, the applicants/claimants are seeking to withdraw the decreetal amount deposited by the insurance company. Since the application seeking condonation of delay has been rejected, the question of entertaining appeal does not arise. There is, thus, no reason why should the applicants/claimants be not permitted to withdraw the amount deposited by the insurance company. Hence, the application is allowed.

7. The Registry shall disburse the amount strictly in accordance with the award passed by the Motor Accident Claims Tribunal.

(Anil L. Pansare, J.)

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