



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

Civil Application [CAF] No.1975 of 2021

in

First Appeal St. No.11988 of 2021

Harish s/o Pohumal Changani

vs.

New India Assurance Company Limited and others

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Mr. Shadan Khan h/f Mr. Masood Sharif, Advocate for Applicant/Appellant.

CORAM : M.W. CHANDWANI, J.

DATE : 24th JULY, 2024.

Heard the learned Counsel for the appellant.

02] This is an application for condonation of delay in preferring the appeal. Though the respondents are served, neither respondent No.1-Insurance Company nor respondent Nos.2 to 4-claimants filed reply to the application. Therefore, the statement of facts mentioned in the application on affidavit remains uncontroverted.

03] For the reasons mentioned in the application, delay caused in filing the appeal is condoned. The appeal be registered. The application is allowed and disposed of accordingly.

First Appeal St. No.11988/2021:

Heard.

02] Issue notice to the respondents, returnable within three weeks.

Civil Application [CAF] No.1976/2021:

Heard.

02] The Insurance Company has been directed to pay the amount of compensation to the claimants and then recover the same from the appellant and respondent No.5. Feeling aggrieved with the pay and recover order of the Tribunal, the present appeal has been filed. The contention is that, the case against the appellant proceeded *ex parte* and the appellant has good case on merit, as the Insurance Company failed to prove willful breach of policy by the appellant.

03] Considering the submission and the grounds raised in the appeal, there shall be stay to the execution proceedings filed by respondent No.1 against the appellant until further orders, subject to depositing of Rs.2,00,000/- in this Court within four weeks from today.

JUDGE

**sandesh*