



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

Civil Application (CAF) No. 1438 of 2021
in

First Appeal St. No. 26903 of 2017

[Bajaj Allianz General Insurance Co. Ltd., Nagpur, having its branch Office at Sadar, through its Legal Manager Mr. A. R. Yawalkar ..vs.. Smt. Jyotsna Wd/o Vandeo Katpallewar and ors.]

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

Court's or Judge's orders

Mrs. Mrunal Naik, Advocate for the applicant/appellant

CORAM : ANIL L. PANSARE J.

DATED : 07-03-2024

By the present application, the applicant – insurance company is seeking to condone delay of 42 days in filing appeal against the judgment and award dated 19-7-2017 passed by the Motor Accident Claim Tribunal, Darwha in M.A.C.P. No. 18/2011.

2. The reasons assigned for delay are as under :

“1. That the impugned order came to be passed on 19.07.2017. The Appellant applied for the certified copy of the Order immediately. After receiving the certified copy, the local counsel for the Appellant sent the same through courier but the said copy got lost in transit.

2. The earlier legal manager who was responsible for the legal work of the branch office of the Appellant at Nagpur left the services of the Appellant Company & it took some time for the Appellant to appoint an appropriate candidate in place of the erstwhile manager. After the current manager took charge of the location it came to the knowledge that certified copy of the Order has got lost in transit.

3. That the appellant immediately instructed its office staff to trace the certified copy of the Order & the same was accordingly traced in the first week of November 2017. However, the limitation for filing the appeal has lapsed. There is a delay of 42 days in filing the present appeal. Therefore the Appellant has filed the present application for condonation of delay.”

3. As could be seen, the applicant has not disclosed the date when counsel applied for certified copy, as to when certified copy was received and as to when the local counsel for the appellant has sent the same. The applicant/appellant then states that certified copy got lost in transit. The applicant has not whispered a word why fresh copy was not obtained.

4. The applicant states that legal manager has left the job. When did he do so is not disclosed. The application is silent as to how much time did it take to appoint fresh candidate, as to when was he appointed, as to when did he take charge of the location and as to when did he came to know of the lost award. It is further not known as to when did the appellant give instructions to trace the certified copy of the award.

5. The applicant then states that the award was traced in the first week of November, 2017. It is surprising that the copy of award that got lost in transit was traced in the office. Thus, there is absolutely no justification given by the applicant to condone the delay.

6. The non-applicants/original claimants are awaiting the fruits of the decree. With the lapse of limitation, civil right has accrued in favour of the non-

applicants. They have every reason to believe that the award has attained finality and is binding on the applicant. The rights so accrued cannot be lightly disturbed, at least not on the grounds put forth by the applicant. The applicant failed to show any cause, much less, sufficient cause to condone delay. The application is rejected.

(Anil L. Pansare, J.)

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