

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CONC No. 54/2018

New India Assurance Company limited

...Petitioner(s)

Through: Ms. Muzamil Jabeen, Advocate

Vs.

Ishrat Lateef and Ors.

...Respondent(s)

Through: Mr. Mujeeb Andrabi, Advocate

CORAM:

HON'BLE MR JUSTICE VINOD CHATTERJI KOUL, JUDGE

ORDER
31.05.2023

There is a delay of 282 days in filing an application seeking a review of a judgment.

The grounds taken in the application are that:-

1. *That the applicants had no information about the decision of the appeal as they were not themselves present in the Court. The counsel for the applicants had a misunderstanding that the appeal has been dismissed as the similar appeals on the controversy involved had also been dismissed by the Hon'ble Court. Those include CIMA No. 82/2016 and clubbed appeals in which the issue involved was the same regarding the licenses issued by ARTO, Doda, which is an issue involved in the present case.*
2. *That the son of the applicant-respondent No. 11 is suffering from carcinoma and has been under treatment at Srinagar for a pretty long time where the disease could not be diagnosed. The son of the applicant respondent No. 11, namely Umar Mushtaq was initially admitted in Govt. Hospital for Bone & Joint Surgery on 27-07-20 17. Copy of the Inpatient case sheet of the hospital is marked as Annexure-A1. Since the treatment provided did not improve his position, the applicant-respondent No. 11 along with his father-respondent No. 10 were advised to take the patient*

for treatment to Rajiv Gandhi Cancer Institute & Research Centre, Sector- V, Rohini, Delhi-110085. Accordingly, both of them took the patient for treatment to the said hospital where he was diagnosed as a case of Ewing's Sarcoma. The patient was admitted in the said hospital and approximate cost for treatment was assessed as Rs. 11.00 lacs. Copy of the summary issued by the hospital and the estimated cost of treatment are placed on record and marked as Annexure-A2 & A3. The patient remained admitted in the hospital for several months and is still under the treatment as the disease is not fully treated, but there has been some improvement. Presently he is undergoing chemotherapy in the said hospital according to the advice of the doctors.

- 3. That while the applicants-respondents 10 & 11 were away at Delhi they received some information at their home that a notice has been issued by the Ld. District Judge, Anantnag, but contents of the notice were not known to the family members of the applicants.*
- 4. That the applicants thereafter approached the office of the Ld. District Judge, Anantnag who is also exercising the powers under Motor Vehicles, Act and were informed that there is an application filed by the Insurance Company for recovery of the amount of compensation awarded to the victims.*
- 5. That the applicants obtained photocopy of the application made by the Insurance Company, which is marked as Annexure-A4. The copy was obtained in the last week of June, 2018. The applicants thereafter consulted their counsel who advised them to obtain the certified copy of the order passed by the Hon'ble Court. The certified copy was delivered to them on 28-06-2018. Certified copy of the judgment dated 23-08-2017 is marked as Annexure-A5. The delay in filing the review petition is not intentional but has occasioned by the circumstances indicated above. The condonation of delay will, therefore, be in the interests of justice.*

6. *That the applicants have been left penniless. They have obtained loan and sold their land for treatment of the patient, namely, Umar Mushtaq Shah.*
7. *That this Application is supported by an Affidavit.*

The objections have been filed, and the party opposing the application argues that there are no sufficient grounds shown to warrant an extension of time to condone the delay.

Heard learned counsels for the parties and examined the record.

While no sufficient cause has been shown for the delay, the Court, in the interest of justice, decides to allow the application seeking condonation of the delay, subject to the payment of Rs.2,000/- as costs to be paid to the other side. The costs must be paid within two weeks.

Registry to diarize and list the review thereafter along with the record.

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR
31.05.2023
Aadil