



2026:DHC:2756-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 30th March, 2026

+ RFA(COMM) 727/2025 & CM APPL. 82632/2025, CM. APPL.
8325/2026

ICICI LOMBARD GENERAL INSURANCE CO. LTD.
THROUGH ITS AUTHORIZED REPRESENTATIVE
MR. GUTAM BHATNAGAR
7 MERCANTILE HOUSE,
15 KG MARG, NEW DELHI 110001

.....APPELLANT

Through: Mr. Sandeep Jha, Advocate

Versus

SH. SUBODH JAISWAL
S/O SH. ANIRUDH PRASAD CHAUDHARY
R/O HOUSE NO. 122, J-EXTN.
LAXMI NAGAR
DELHI-110092.

.....RESPONDENT

Through: Mr. Rohini Kumar, Mr. Kapil
Dev Yadav and Mr. Shubhanshu
Kumar Dwivedi, Advocates

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

NITIN WASUDEO SAMBRE, J.

CM APPL. 82630/2025 & CM APPL. 82633/2025

1. These applications are listed for condonation of delay moved under Section 5 of the Limitation Act, 1963 seeking to condone the delay of 248 days in filing the present appeal under Section 13 (1A) of



the Commercial Courts Act, 2015 and also condonation of delay of 62 days in re-filing the appeal.

2. Amongst other, the cause cited are misjoinder of party as it is claimed that instead of joining the insurance company as a party defendant, the local branch office of the appellant – Insurance company was impleaded through whom the insurance policy was drawn. It is further claimed that same has led to the ex-parte judgment being passed as the fact was never within the knowledge of the appellant.

3. Apart from above reason, in support of condonation of delay of 248 days, there is an unexplained delay of 62 days in re-filing the appeal.

4. The Apex Court has already directed that stringent approach be taken in the matter of condonation of delay in case if the appeals under Commercial Courts Act are to be entertained.

5. No doubt, the respondents are relying on the judgment of *Government of Maharashtra (Water Resources Department) represented by Executive Engineer v. M/s Borse Brothers Engineers & Contractors Pvt. Ltd.* [(2021) 6 SCC 460] in support of their contention, however for the reasons mentioned above, we condone the delay.

6. Considering the fact that the appellant is an Insurance company and is holding the shareholder's money, interest and having regard to the cause cited, we deem it appropriate to condone the delay in terms of the prayer clause of both these applications, subject to payment of cost of Rs.3,00,000/-, which be adjusted from the amount deposited by the appellant.



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7. Out of the total amount of cost of Rs.3,00,000/-, Rs.50,000/- be paid to the respondent/decreed holder having incurred cost of this litigation.
8. Another Rs.50,000/- be paid to Delhi High Court Bar Clerk's Association ('*DHCBCA*') with the following bank details:-

Account No.	15530100006282
IFSC Code	UCBA0001553
Bank Name	UCO Bank
Branch	Delhi High Court

9. Whereas the balance amount of Rs.2,00,000/- be paid in favour of the *Maharashtra Animal and Fishery Science University, Nagpur* with the following bank details:-

Account Name	Comptroller, MAFSU, Nagpur
Account No.	607002010001287
Name of the Bank	Union Bank of India
IFSC Code	UBIN0560707

10. It shall be ensured that the amount is spent on Veterinary Clinical Complex, Nagpur Veterinary College, Nagpur.

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11. By consent, the appeal is taken up for final hearing at this stage.



12. This appeal is directed against the ex-parte judgment and decree dated 6th December, 2024 passed by District Judge (Commercial) -02, East District, Karkardooma Courts, Delhi in the matter of CS(COMM.) No. 33 of 2021 titled as *Sh. Subodh Jaiswal v. ICICI Lombard General Insurance Company Ltd.*

13. The facts necessary for deciding the present appeal are as under:

- i. The appellant initiated the suit for recovery of Rs.15,00,000/- based on the Personal Protect Insurance Policy dated 11th June, 2016 obtained by mother of the respondent/original plaintiff. Under the said policy, sum insured was Rs.10,00,000/- and the respondent/original plaintiff was named as a beneficiary.
- ii. Accordingly, a policy certificate was issued for which regular premium was paid. The policy was valid for a period of 5 years.
- iii. During the subsistence of the policy, the mother of the respondent expired on 18th April, 2019 in an accident having suffered a head injury.
- iv. The request of the respondent to release the sum insured on 25th April, 2019 was not attended as the appellant indulged into unnecessary communications. It was the case of the respondent that he fulfilled all the requirements on 20th May, 2019.
- v. Instead of granting the claim, the claim was rejected on 28th December, 2019.
- vi. The same has prompted the respondent to initiate the suit in question.
- vii. Though served, the appellant/original defendant herein chose not to appear in the matter and it prompted the court to proceed *ex parte* against the appellant/original defendant.



viii. The respondent/original plaintiff/PW-1 led evidence through an affidavit *Ex.PW1/A* and proved the insurance policy dated 11th June, 2016 as *Ex.PW1/1* which was valid from 11th June, 2016 to 10th June, 2021, Aadhar Card as *Ex.PW1/2* to prove his identity, letter dated 25th April, 2019 issued by the appellant repudiating the claim as *Ex.PW1/3*, the claim form for personal accident as *Ex.PW1/4*, medical documents of deceased *Manorma Chaudhary* mother of the respondent as *Ex.PW1/5*, Death Certificate as *Ex.PW1/6*, the e-mail correspondence between the appellant and respondent of various dates as *Ex.PW1/7*, the rejection/repudiation of claim letter dated 28th December, 2019 *Ex.PW1/8*, legal notice dated 17th March, 2020 as *Ex.PW1/9* and Certificate under Section 65B of Indian Evidence Act, 1872 as *Ex.PW1/10*.

14. Based on the above, the suit came to be decreed *vide* judgment and decree dated 6th December, 2024. The operative part of the judgment and decree reads thus:

'18. Ergo, the suit of the plaintiff is decreed for the amount of Rs.15,00,000/- (Rupees fifteen lakhs only). Further, interests of justice would be met by granting the plaintiff compensation towards mental agony, harassment and torture in the sum of Rs.2,00,000/- (Rupees two lakh only). The defendant is thus directed to pay Rs.17,00,000/- (Rupees seventeen lakhs only) (i.e. Rs.15,00,000/- + Rs.2,00,000/-) to the plaintiff. He shall be entitled to interest also on the total amount from date of filing of the suit i.e. 08.02.2021 till realization @ 10% per annum. Costs of the suit are also awarded to the plaintiff.'

15. The counsel for the appellant has claimed that the appellant – insurance company is bound to honour the claim to the extent of sum



insured and not beyond the said period. According to him, it is an admitted position on record that the sum insured was Rs.10,00,000/- and as such, there was no justification for the Commercial Court to grant the compensation of Rs.15,00,000/- against the policy.

16. So as to substantiate aforesaid contention that the Commercial Court has granted excessive compensation over and above the sum insured, reliance is placed on *paragraph* 18 of the impugned judgment of the learned Commercial Court (referred above).

17. As against above, the counsel for the respondent/original plaintiff states, on instruction, that the sum insured was Rs.10,00,000/- and as such, instead of Rs.15,00,000/- he shall be claiming an amount of Rs.10,00,000/- only towards the insurance money, however, he would claim that rest of the compensation towards mental agony, harassment, torture, interest be maintained.

18. In the wake of aforesaid submissions and having regard to the pleadings, evidence on record including that of documentary evidence, we deem it appropriate to partly allow the present appeal.

19. We accordingly modify the *paragraph* 18 of the impugned judgment. The decretal amount of Rs.15,00,000/- referred to in first line of *paragraph* 18 of the judgment and decree dated 6th December, 2024 is modified and corrected to be Rs.10,00,000/-. Rest of the observations made in the said judgment are maintained.

20. In view of above, the respondent/original plaintiff shall be entitled for compensation of Rs.10,00,000/- instead of Rs.15,00,000/-, whereas rest of the decree stands maintained against the appellant.

21. That being so, the decree stands modified accordingly.

22. The appeal, accordingly, stands partly allowed in above terms.



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23. We further make it clear that the Registry shall, in the wake of aforesaid observations, calculate the amount receivable by the respondent/original plaintiff and release the same to him, upon establishing his identity before the concerned Registrar (Judicial).
24. The balance amount be returned to the appellant after adjusting the amount which is to be received by the respondent/original plaintiff and the amount of cost of Rs.3,00,000/- to be deposited by the appellant.
25. Pending applications, as such, stand disposed of.
26. A copy of this Judgment be uploaded on the website of this Court.

**NITIN WASUDEO SAMBRE
(JUDGE)**

**AJAY DIGPAUL
(JUDGE)**

MARCH 30, 2026/pr/ok