

**BEFORE SHRI H. A. SHAH, JUDGE, EMPLOYEES  
STATE INSURANCE COURT AT AHMEDABAD.**

**Ex.**

**Misc. Application (E.S.I.) No.25/2025**

The Regional Director,  
E.S.I. Corporation,  
Panchdeep Bhavan,  
Ashram Road, Ahmedabad.

.....Applicant

V/s.

Shri Jadav Vijayrav Mukundrav,  
F/704, Parivar Home,  
Vodafone Tower,  
Nr. Devnagar Village,  
New Gota, Ahmedabad.

.....Respondent

Appearances:- Learned Advocate Ms. T. K. Loladia  
on behalf of the Appellant.

- Learned Representative Shri L. H. Solanki  
on behalf of the Respondent.

Subject:- **An Application for Condonation of delay in filing of  
Second Appeal.**

**Judgment:-**

1. The present Miscellaneous application is filed by the E.S.I. Corporation for condonation of delay filing with Second Appeal under Section 54(A)(2) of the ESI Act, 1948 against the order passed by the M.A.T. (Appeal) No.46/2024 dated 28.02.2025.

2. The Applicant is the Employee's state Insurance Corporation submits that there is a delay of 136 days in filing of the second appeal. The delay has occasioned due to the time consumed in obtaining true copy of judgment passed by M.A.T. It is submitted that, thereafter the competent authority after perusing the award decided to challenge the award. That thereafter the case papers were again forwarded to the concerned department for taking necessary steps. It is submitted that the appellant is a statutory body under the ownership of Ministry of Labour and Employment, Government of India and there occurred unintentional delay as necessary approvals were required to be taken by the concerned Department and thereafter the appeal came to be prepared and preferred before this Court and in the process, some delay has been caused, which may kindly be condoned in the interest of justice. Hence, the applicant/Corporation by filing this miscellaneous application prays to condone the delay caused in preferring the second appeal.

3. On filing of this Miscellaneous E.S.I. Application, this Court has issued notice to the respondent-workman which was duly served. The learned Representative Shri L. H. Solanki has appeared before this Court and submitted their authority letter vide Ex.4 and submitted written reply vide Ex.6, and he has stated that, the application of the applicant is liable to be rejected as it is against the provisions of the rules under the Workers' Compensation Act. The petitioner's petition is also liable to be rejected if it does not indicate under which section of the law the matter is filed. If the statements made by the applicant in the application are false and unsubstantiated, the application is liable to be rejected from the outset. If the applicant's application is not accompanied by an affidavit, it is liable to be rejected prima facie. The statements made in para-1 to 5 of the application are completely false and illegal and misleading the Hon'ble Court and do not accept them and all of them the applicant will have to prove this to the Hon'ble Court with specific evidence. It is further stated that, he was performing duties as store keeper in Arvind Limited and during duty on 15.06.2022, he got injured due to an accident on the lower part of his leg due to a fall and he was treated at the Bapunagar General Hospital of the ESI Corporation. And rods and plates were fitted on the lower part of his leg. After that, his disability was determined before the Medical Board of the applicant and accordingly his disability was assessed at 6%. In fact, he had permanent disability and therefore he filed M.A.T. Appeal No.46/2024 against the said order. In this case, the Medical Officer of the applicant, Dr. Kanubhai J. Patel and Dr. Ramnikbhai B. Godhani, both remain present before the

Court. Doctors physically examined him and found that, the previous disability assessed as 6% to him along with other members and after determined 13% disability has been assessed. Thus, since the Medical officers of the applicant have reassessed and determined the same as 2% disability, they cannot legally and in terms of policy challenge the decision of their officers. That is, the applicant organization itself cannot challenge the order made by their officers in the ESI Court and since this action is against the ESI Act, his delay application and the miscellaneous application made under it are liable to be rejected from the beginning. It is also stated that, the applicant claims to have delayed by 136 days, but he has not stated how he calculated those days. In fact, more delay has been occurred in his case. Looking at the reasons for this delay, it has been stated by him that, after the previous judgment, there was a delay in taking further action in the accounts of the Corporation and it should be condoned as per the provision of law. This is because the Hon'ble Higher Courts have clearly decided that, the party should not suffer due to the delay in the accounts. ESI Corporation is a Central Government organization and its head office is located in Gujarat at the address of the present applicant. He is residents of Ahmedabad and this case has also been heard in Ahmedabad. In addition, there are so many officer posted in the various department of the ESI Corporation, who are knowledgeable in the ESI law are working in the applicant Corporation. As they are knowledgeable in the law, they are also knowledgeable in the law of the Ministry of Labour and Employment, Government of India. Moreover, in this present

time, modern communication devices exist. i.e. Mobile phone, Whatsapp, email, fax, etc. are available, therefore, the officers of the applicant at Ahmedabad could have contacted Delhi or other offices of the Government of India immediately, but it is not known that he did so. Moreover, the officers of other offices outside the applicant could have given him immediate answers through these devices, but it is not known that they did so. The Government of India has provided all the above-mentioned devices free of cost to all the officers of the applicant Corporation to avoid delay in work, but it is not known that, the applicant Corporation has used them knowingly and maliciously in his case. Moreover, they have not presented any evidence before this Hon'ble Court regarding the reasons given by them. The law states that, delay can be excused only if there is sufficient and proper reason for the delay and since no such reasons have been presented before this Hon'ble Court, his application is legally liable to be dismissed. It is stated that, in view of all the above facts, in the interest of justice prima facie to dismiss this application of the applicant Corporation for condonation of delay as it is illegal and without proper and sufficient reasons and without evidence, with costs.

4. Heard the arguments of the learned advocate of the applicant and learned representative of the respondent.

5. Upon going through the application it appears that, the applicant - ESI Corporation has taken advice from the authorities for challenging the order. And after taking the necessary approval

from the Higher Authority filed the present appeal. Hence, there is a delay of 136 days. It is also required to be considered that, the ESI Corporation is a Social Security Organization constituted under the ESI Act, which is intended cater to the Social security needs of person from whom it is meant, any misuse or excessive Social Security Legislation and cause drain on the funds of the organization. The delay is purely procedural and unintentional. The application Corporation, being a public body working under the Ministry of Labour and Employment, is committed to compliance with statutory processes and public interest. The Hon'ble Supreme Court has time and again held that, delays by public bodies should be considered with a liberal and justice oriented approach. Hence, there is an administrative procedure for condonation of delay, and delay of 136 days which has caused in filing of appeal, and in view of the observation and ratio of the various Hon'ble High Courts as well as Hon'ble Apex Court that:- in dealing with such type of appeal, the Court should adopt liberal view, and to see that, the Court has to do substantial justice to the parties instead of adopting hyper technical view, and condonation of delay in no manner prejudice the respondent. On the other hand, denial of condonation of delay causes great hardship and injustice. Taking all these facts and circumstances into consideration, in the larger interest of justice, the application of the applicant-corporation deserves to be allowed. Hence, I pass following final order in the interest of justice.

**ORDER**

1. The present Misc. Application (E.S.I.) No.25 of 2025 is hereby allowed.
2. The delay of 136 days to file this appeal is hereby condoned.
3. The Office is hereby directed to register E.S.I. Second Appeal accordingly.
4. No order as to costs.

Pronounced in open Court to-day i.e. on **30.06.2026**.

**(H.A. Shah)**

JUDGE

Employees State Insurance

Court, Ahmedabad

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Manoj (PS)