

Order Below Exhibit-35
In
Application No. 1470 of 2019.

Read the application and say filed. Perused the record. Heard.

2. By this application, the Insurer is praying for waiver or reduction of interest which would possibly be imposed on the Award sum, on account of delay caused in prosecuting the matter by the claimant. It is contended by the Insurer that the matter is pending since more than five years. The delay in disposal of the claim is not attributable to any act or omission on the part of the Insurer but has occurred as the claimant has not adduced evidence and has not taken necessary steps to prosecute the claim, within reasonable time. The Insurer cannot be made liable to pay additional interest for the prolonged period of pendency resulted due to inaction of the claimant himself and therefore, the application deserves to be allowed.

3. The claimant has resisted the application contending that the Insurer has not disputed involvement of the insured vehicle in the accident. The issue of imposition, reduction or waiver of interest can be decided along with the main-claim and not at this stage.

4. It is a fact that the matter is of the year 2019 and is pending since long. The record reveals that initially matter was pending for long for appearance of parties, filing of written statement and framing of issues. The matter was posted for evidence of the claimant on 15.04.2023 only after issues in the

matter came to be framed vide Exh. 17. After that, Opposite Party No. 2 came to be impleaded in the proceeding by way of amendment, who has failed to appear, despite of duly served with notice. Hence, ex-parte order came to be passed against Opposite Party No. 2 on 03.10.2025. After that the matter proceeded further for recording of evidence of claimant's witness No. 1 on 24.11.2025 and witness No. 2 on 17.12.2025. The claimant closed evidence on the same day on 17.12.2025 vide Exh. 46. This shows that the claimant has commenced and concluded his evidence within two dates given in the matter. This indicates, he had no intention to withhold the evidence just to prolong the matter. Prior to that although, the matter was pending for evidence of claimant for considerable period, however, that does not mean that the claimant has adopted dilatory tactics to prolong the matter. Such an inference cannot be drawn unless it is so established. The Insurer has not brought on record any malafides on the part of the claimant.

5. Needless to mention, apart from the conduct of the parties, there are many other factors responsible for delaying the proceedings, which are not at all attributable on the part of the parties. Further, such an issue of granting or non-granting of interest can be decided only at the time of passing of the judgment, considering the overall facts and circumstances of the case and the evidence available on record. At this stage, it would be improper to pass such an order in anticipation of granting the claim with interest. Furthermore, the Insurer has not specified any period for which the interest is to be waived or reduced and

has filed a vague application. Therefore, the application deserves to be dismissed. Hence, the following order,

ORDER

The application is dismissed.

Sd/-

Date: 11.03.2026.

(Smt. Rohini R. Patwari)
Member, C.R.No.5,
MACT, Mumbai.