

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.
CIVIL APPLICATION NO.431 OF 2014
IN
FIRST APPEAL (ST) NO.961 OF 2014

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. R. D. Talreja for the Applicant
Mr. A. M. Gokhale for the Respondent No.1.

CORAM : K. K. TATED, J.
DATE : APRIL 17, 2015

P.C.:

1. Heard the learned counsel for the Applicant.
None for Respondent No.2 though duly served.

2. This Application is preferred by the opposite party No.2 for condonation of 345 days delay in filing the First Appeal challenging the judgment and award dated 31/12/2012 passed by the MACT Mumbai in Petition No.3009/2008.

3. The learned counsel for the Applicant submits that the Applicant was under impression that in view of the order passed by the Trial Court dated 11/06/2009 below Exhibit 2 in claim Application No.3009/2008, particularly paragraph 4, the Applicant is not necessary party before the Trial Court. He submits that even the Advocate for the Applicant in the Trial Court advised the

Applicant that it is not necessary for her to appear before the Trial Court. The learned counsel for the Applicant submits that the Applicant learnt about the impugned judgment and award dated 31/12/2012 when the Respondent No.1 claimant served execution notice on 04/12/2013. Thereafter the Applicant immediately contacted her Advocate. At that time, the Applicant learnt that the Trial Court passed the impugned judgment and award against her also. Then the Applicant immediately applied for certified copy on 24/12/2013 and same was collected on 07/01/2014. Thereafter the Applicant filed the present appeal on 09/01/2014.

4. The learned counsel for the Applicant submits that the Applicant has good chance of success in the present matter. He submits that on the date of accident the Applicant was not owner of the offending vehicle. He submits that the Applicant sold the offending vehicle to the Respondent No.2 before the date of accident. He submits that the Applicant placed on record the delivery note dated 06/02/2008.

5. The learned counsel for the Applicant submits that in view of above mentioned facts and the reasons disclosed in the Civil Application, this

Hon'ble Court be pleased to condone the delay in preferring the appeal. If delay is not condoned, irreparable loss and injury will be caused to the Applicant. The Applicant has good chance of success in the matter.

6. On the other hand, the Respondent No.1 vehemently opposed the present Civil Application. He submits that the Applicant has not shown sufficient cause for condonation of inordinate delay of 345 days delay. Hence, there is no substance in the present Application. Same be dismissed.

7. Heard both sides at length. Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

8. Hence, the following order:

- a. Delay of 345 days in filing the First Appeal is condoned.
- b. Civil Application stands disposed off accordingly.

JUDGE