

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.

CIVIL APPLICATION NO.1735/2015
WITH
CIVIL APPLICATION NO.1736/2015
AND
FIRST APPEAL (ST) NO.13241/2015

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. Rahul Mehta i/b. KMC Legal Venture for the Applicant

CORAM : K. K. TATED, J.

DATE : JULY 31, 2015

P.C.:

1. Heard. This Application is preferred by Insurance Co. for condonation of 482 days delay in filing the appeal challenging the award dated 08/10/2013 passed by the MACT, Mumbai in MACP No.95/2012 holding that the claimant is entitled to interim compensation of Rs.25000/- with 9% p.a. interest under section 140 of the Motor Vehicles Act.

2. The learned counsel for the Applicant submits that the Advocate who appeared on behalf of the Applicant filed Application for certified copy on 29/01/2014 and same was collected on same

day. Thereafter, the Advocate who appeared in the Trial Court forwarded the certified copy to the concerned officer in the first week of March, 2014. Thereafter the said officer took a view to challenge the impugned order by filing the present appeal on the ground that the insurance policy placed on record by the claimant was not issued by them. Same was fabricated policy. The learned counsel for the Applicant submits that to take decision on behalf of the Applicant they have to consult with several Departments. Hence, there is delay of 482 days in filing the First Appeal.

3. In support of this contention, the learned counsel for the Applicant relies on paragraph 3 of the Civil Application.

4. The learned counsel for the Applicant submits that they have good chance of success in the matter. He submits that the claimant placed on record a forged and fabricated document i.e. insurance policy. He submits that if delay is not condoned, irreparable loss and injury will be caused to the Applicant. He submits that in the interest of justice this Hon'ble Court be pleased to condone the delay in filing the appeal and same be heard on merits.

5. Heard the learned counsel for the Applicant at length. The Applicant has not shown sufficient reason as to why their Advocate appeared in the Trial Court took more 3 months to apply for certified copy of the impugned order dated 08/10/2013. Moreover, when the concerned officer decided to file an appeal in the first week of March, 2014, they filed the appeal on 05/05/2015. The Applicant has made vague statement in paragraph 3 of the Civil Application that they have to take decision at several level and therefore there is delay on their part. The reasons disclosed by the Applicant in paragraph 3 of the Civil Application do not show sufficient cause for condonation of delay of 482 days in filing the appeal.

6. This Court in the matter of **Laxman Divekar Vs. State of Maharashtra 1998 (1) Mh.L.J 745** held that Court has no power to arbitrarily condone the delay in the name of advancing substantial justice just because the applicant happen to be a Corporation. This court, further in the matter of **Special Land Acquisition Officer & Anr. Vs Jose Prezares De Piedade Pinto, 2006(2) Bom.C.R 773** held that delay caused due to movement of file from one table to another cannot be a reason for condonation of delay.

7. The Apex Court in the matter of **Damodar Pillai Vs. South Indian Bank Ltd, 2005(5) All.M.R. 961 (SC)** held that hardship or injustice is not a ground for extending the period of limitation. The Apex Court further in the matter of **Pundlik Jalam Patil Vs. Ex.Engg. Jalgaon Medium Project and Ors, 2008(6) BCR 513** held that unless and until sufficient cause is shown, inordinate delay should not be condoned. In the matter of **Commissioner, Nagar Parishad, Bhilwara Vs. Labour Court, Bhilwara & Anr, 2009(3) SCC pg 525** the Apex Court held that while dismissing an Appeal on the ground of limitation, going into the merits of the case is not allowed.

8. The Apex Court in the matter of **Oriental Aroma Chemical Industries Limited Vs. Gujarat Industrial Development Corporation reported in 2010 (5) SCC 459**, held that in the absence of sufficient cause, Court should not condone the delay. In the case of **B. Madhuri Gaud Vs. B. Damodar Reddy, 2012 (12) SCC 693** the Apex Court held that if sufficient cause is not shown, delay should not be condoned. The Supreme Court in the matter of **Office of Chief Post Master General and Others Vs. Living Media India Ltd & Anr, 2012 All SCR 892** held that delay attributed

in personal machinery and methodology, cannot be condoned in view of modern technology use. The Apex Court in the matter of **Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy 2013(12) S.C 450** held that if sufficient cause is not shown, application for condonation of delay needs to be rejected.

9. Considering the reasons disclosed by the Applicant in paragraph 3 of the Civil Application and the law declared by the Apex Court as stated herein above, I am of the opinion that the Applicant failed to make out any sufficient cause for condonation of inordinate delay of 482 days in filing the First Appeal. Hence, following order is passed:

- a. Civil Application stands rejected.
- b. In view thereof, the registration of the First Appeal stands rejected.
- c. Consequently, the Civil Application for stay does not survive. Same stands dismissed as infructuous.

JUDGE