

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.1053 OF 2016
IN
FIRST APPEAL (st.) NO.29724 OF 2015
WITH
CIVIL APPLICATION NO.1054 OF 2016**

Bajaj Allianz General Insurance Co. Ltd. Applicant

Vs.

Shri. Uday Sadashiv Gaikwad & Anr. Respondents

Ms. Yogita Deshmukh, Advocate for the Applicant.

Coram : Smt. R.P. SondurBaldota, J.

Date : 31st March, 2016

P.C.

1 This application is for condonation of delay of 75 days in preferring the First Appeal to challenge the judgment and award dtd. 9th April, 2015 passed by the Motor Accident Claims Tribunal, Kolhapur. The applicant is the Insurance Company. Respondent no.1 is the original claimant and respondent no.2 is the owner of the offending vehicle. As the application for condonation of delay did not set out the details of the explanation for not filing the appeal within the prescribed time, Ms. Deshmukh, the learned advocate for the applicant has filed an additional affidavit. The same is taken on file.

2 The averments to explain the delay are found at paragraphs 3 and 4 of the additional affidavit. The gist of the averments made therein is that the claim originates from Kolhapur Tribunal. In the procedural system of the applicant, the appellate work arising from Kolhapur region is handled by the appeal team of Pune. Then the updates of the same are communicated to Mumbai office. By the judgment and award dtd. 9th April, 2015, respondent no.1 has been awarded compensation in the sum of Rs.1,37,500/- with interest @7% per annum from the date of the petition till realisation, for the permanent disability suffered by him on account of injuries sustained in the motor vehicle accident. The application was made under Section 163-A of the Motor Vehicles Act. On 13th April, 2015 the appellant applied for certified copy of the judgment and award. The same was received by the appellant at it's Kolhapur office on 12th May, 2015. Then it came to be forwarded to Pune office and was received there on 19th May, 2015. From Pune, it was sent to Mumbai office and this travel apparently took time until 3rd June, 2015. Then the appellant deliberated over the decision of filing of appeal and finally took the decision on 29th August, 2015. A copy of the decision was sent to the Advocate's office on 30th August, 2015. Thereafter the appeal memo was prepared by 21st September, 2015 and the process for payment of statutory deposit made on 23rd September, 2015. The cheque of the court fees and statutory deposit was sent to the Mumbai office on 28th September, 2015. Thereafter the appeal came to be filed on 31st October, 2015.

3 The above narration is mere chronology of events. It is not an explanation of circumstances that had prevented the appellant from filing appeal. If the appellant takes its own time, for the internal transmission of papers and deliberation over the decision to file appeal, the same can by no stretch of imagination said to be a circumstance preventing the appellant from filing appeal. Thus, there is no case whatsoever made out by the appellant for condoning the delay. Hence, the Civil Application is dismissed

4 In view of dismissal of the Civil Application for condonation of delay, the First Appeal does not survive. The same is accordingly disposed off alongwith the Civil Application for interim reliefs.

5 Refund of Court fees as per rule. Statutory deposit to be transferred to the M.A.C.T., Kolhapur.

(Smt. R.P. SondurBaldota, J)