

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

**CIVIL APPLICATION NO. 772 OF 2016
IN
FIRST APPEAL (ST.) NO. 5632 OF 2016**

United India Insurance Co. Ltd.	... Applicant
V/s.	
Subhash Nagnath Bet	... Respondent

Mr. Ketan Joshi for the applicant.

**CORAM : K. K. TATED, J.
DATED : 26/02/2016**

PC.:

. Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.

2 This civil application is preferred by Insurance Company for condonation of 127 days delay in filing First Appeal challenging the Judgment and Award dated 15.06.2015 passed by the Motor Accident Claims Tribunal, Solapur in M.A.C.P. No. 107 of 2011.

3 In the present matter, in accident which occurred on 25.02.2010, the respondent-claimant sustained heavy damage to his car i.e. petrol tank, both bearings, bumper, head light, front side glass of the car of the applicant sustained damage. The respondent-claimant spent around Rs.70,000/- for the repairs of the said car. It took more than three months to get car repaired and during that period the claimant spent more than Rs.5000/- for auto rickshaw charges as well as his family

also spent near about Rs.5000/- for the same expenses. Hence, respondent-claimant filed application for compensation of Rs.1 lac. The claimant placed on record invoices for repairs. To prove those invoices, he examined P.W. 3 Pratapsingh Vidhate from whom claimant repaired his car. Considering the evidence on record, the Tribunal awarded sum of Rs.52,315/- with 7.5% interest per annum.

4 The learned Counsel for the applicant submits that there is delay of more than 127 days in filing the First Appeal because they have to take approval from several departments. He submits that as soon as the Judgment and Award passed by the Tribunal, the concerned Advocate forwarded the papers to the Divisional Office for approval. Thereafter, those papers were forwarded to the Regional Office, Pune for getting their approval for filing the First Appeal. He submits that in that process, it remained on the part of the applicant to file First Appeal immediately before this court.

5 The learned Counsel for the applicant submits that they have good chance of success in the present matter. He further submits that if present Civil Application is not allowed, irreparable loss and injury will be caused to the applicant.

6 I heard learned Counsel for the applicant at length. It is to be noted that in the present proceeding, the respondent-claimant sustained damages to his car to the extent of more than Rs.25,000/-. He claimed Rs.1,00,000/- by way of damages. Considering the evidence on record, the Tribunal awarded sum of Rs.52,315/- with

interest @ 7.5 % per annum. In spite of that, Insurance Company has filed the present Appeal and that also beyond the period of limitation. The reasons given by the applicant in Civil Application are about administrative reasons. That cannot be considered as sufficient reasons for condonation of delay.

7 The Apex 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.

8 The Apex Court in the matter of **Maniben Devraj Shah Vs. Municipal Corporation of Brihan, Mumbai reported in 2012 (5) SCC 157**, held that no premium be given for total lethargy or utter negligence of State officers/machinery/agency/ instrumentality and condonation of delay caused by such officer cannot be allowed as a matter of course by accepting the plea that dismissal on the ground of limitation will caused injury to public interest.

9 Considering the reasons disclosed by the learned Counsel for the applicant and the law declared by the Apex Court, I am of the opinion that applicant is failed to disclose the sufficient cause for condonation of delay.

10 Hence, Civil Application stands disposed of accordingly.

11 The Registry of this Court is directed to transfer the amount of

Rs.25,000/- with interest if any, which was deposited by the applicant at the time of filing of First Appeal, to the Tribunal in the account of M.A.C.P. No. 107 of 2011.

(K.K.TATED, J.)