IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3378 OF 2012
IN
FIRST APPEAL (ST) NO.25093 OF 2012

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.

Smt.Varsha Chavan for the applicant

Mr.T.J.Mendon for the respondent no.1

CORAM : K.K.TATED, J.
DATED : 11/01/2016

PC:

1 Heard the learned counsel for the parties.

2 Though respondent no.2 to 4 is duly served, no one appeared on behalf of them when the matter was called out.

3 This application is preferred by Insurance Company for condonation of 1 year 2 days delay in filing First Appeal challenging the judgment and award dated 30.4.2011 passed by MACT, Mumbai in Application No.546 of 2004 awarding sum of Rs.10,18,320/- with 7.5% interest p.a. by way of compensation to the respondent claimant.

4 The learned counsel for the applicant submits that there was delay on the part of advocate who

appeared before the Trial Court for applying for certified copy and forwarding the same to the concerned officer. For that purpose, he relies on paragraph 5 of the Civil Application. He submits that delay is not intentional but same is because of procedure adopted by the Insurance Company for filing First Appeal in this court. He submits that they have good chance of success in the above mentioned matter. He submits that if delay is not condoned, irreparable loss will be caused to them.

5 On the other hand, the learned counsel for the respondent no.1 vehemently opposed the present Civil Application. He submits that applicant has not shown sufficient cause for condonation of delay. Hence, there is no substance in the present Civil Application and same be dismissed with costs.

6 Heard both the sides at length.

7 It is to be noted that though Civil Application was duly served on respondent claimant, there is no Affidavit-in-Reply to oppose the Civil Application.

8 Considering the submissions made by the learned counsel for the Applicant and the reasons disclosed in paragraph 5 of the Civil Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application. Hence, following order is passed:

A) Civil Application is allowed in terms of prayer clause (a) which reads thus:

> "(a) The delay of 1 year and 2 days caused in filing appeal be kindly condoned in the interest of Justice on such terms as the Hon'ble Court may deem fit and proper."

B) Civil application stands disposed off accordingly.

(K.K.TATED, J.)