

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

922 CIVIL APPLICATION NO. 4737 OF 2017
IN FAST/9718/2016 WITH CA/3870/2016 IN FAST/9718/2016

BHARATI DINKAR NERKAR AND ORS
VERSUS
THE NATIONAL INSURANCE COMPANY LTD, DIVISIONAL
OFFICER, DIV. OFFICE, JALGAON AND

...
Advocate for Applicant : Mr. Madhav M. Bhokarikar.
Advocate for Respondent No.1 : Mr. V. N. Upadhye.
...

CORAM : K.K. SONAWANE, J.

DATED : 16TH AUGUST, 2017.

Order :-

Heard learned counsel for the applicant-appellant and learned counsel for the original claimants-respondents No.1,2,5. The notice to the respondent No.6 could not be served due to lack of his correct forwarding address. He was owner of the offending vehicle.

2. The learned counsel for the applicant-appellant submits that there is a delay of 51 days in filing the appeal against the impugned Judgment and Award passed by the learned Tribunal in M.A.C.P.No. 130 of 2012 dated 19-10-2015. He submits that, the appellant Insurance Company has already deposited the entire compensation amount as directed by the learned Tribunal. There are legal issues arguable in nature in this matter. Hence, he requested to condone the delay. However, learned counsel for the respondents No. 1 to 5 - original claimants submits that, the applicant failed to explain the delay caused in filing the appeal. There is sufficient reason for

sufficient delay. Hence, he requested to present an appeal.

3. Heard learned counsel for the respondent. Perused the application. As referred supra, the respondent No.6 is owner of the offending vehicle. In view of his monetary liability in this matter, I do not find any impediment to proceed further in absence of respondent No.6 for deciding the application for condonation of delay.

4. In view of the reasons mentioned in application, I am of the opinion that, the reasonable opportunity is required to be given to the Insurance Company to agitate the findings of the learned Tribunal in the Appellate Forum for redressal of its grievances. There is a delay of 51 days in this matter. Moreover, the Applicant Insurance Company has already deposited the entire amount towards monetary liability imposed by the learned Tribunal. In such circumstances, there is no impediment to condone the delay. Hence, the application stands allowed in terms of prayer clause 'A'. The delay caused in filing the appeal against the impugned Judgment and Award of the learned Tribunal passed in M.A.C.P.No. 130 of 2012 is hereby condoned. The Registry to take steps for further process and list the matter for hearing of First Appeal on 7th September 2017.

Sd./-

[K. K. SONAWANE]
JUDGE

rrd.