

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

921 CIVIL APPLICATION NO. 10996 OF 2017 IN FAST/11969/2012

Nath Madhavrao Gurme	..	Applicant.
VERSUS		
United India Insurance Company Ltd., Through It's Branch Manager, Latur, and others.	..	Respondents.
...		
Advocate for Applicant : Mr. Sanjay V. Mundhe		
Advocate for Respondent No.1 : Mr. S. G. Chapalgaonkar.		
Advocate for Respondent No.2 : Mr. S. P. Urgunde.		
...		

**CORAM : K.K. SONAWANE, J.
DATED : 13TH SEPTEMBER, 2017.**

Order :-

Heard learned counsel for the applicant and the learned counsel for the respondent Insurance Company. None appears for respondents No. 2 to 4. Perused the record.

2. The record adumbrates that, the present appeal came to be filed in the year 2012 with an application for condonation of delay. The notices were issued to the respondents. After service of notice, the respondent No.1-original claimant i.e. present applicant secured his presence in the application for condonation of delay filed on behalf of the applicant- United India Insurance Company Limited. Thereafter, there is no progress in the proceedings for securing the presence of rest of the respondents. It has been contended on behalf of appellant- Insurance Company that since long the proceedings is pending in *await* category for service of notice to respondents No. 2, 3 and 4, and therefore, as the matter was not listed on the board, no steps were taken on behalf of the appellant- Insurance Company. I am in agreement with the contention put-forth on behalf of appellant- Insurance Company. In contrast, it appears that, the appellant- Insurance Company remained idle since year 2012 and did nothing to secure presence of rest of the respondents in this

matter. There is a delay of 8 days which is to be condoned for filing appeal against the impugned Judgment and Order of learned Motor Accident Claim Tribunal, Latur. The lackadaisical and slipshod attitude on the part of appellant- Insurance Company for not taking steps with due diligence for securing the presence of rest of the respondents caused, the proceeding pending since long for hearing on the application for condonation of 8 days delay in this appeal. Eventually, the original claimant preferred the present civil application for permission to withdraw the compensation amount which is deposited by the appellant- Insurance company long back in the year 2012 in this proceeding. Admittedly, the claimant is pursuing the matter since year 2010. He obtained the decree from the learned Tribunal in the year 2011. But, because of the appeal filed on behalf of appellant- Insurance Company alongwith application for condonation of delay, the claimant could not enjoy the fruits of the Award passed by the learned Tribunal. In such circumstances, I do not find any impediment to allow the applicant to withdraw the entire amount deposited by the appellant Insurance Company in this case, subject to condition that the applicant-original claimant shall furnish undertaking to the satisfaction of Registrar (Judicial) of this Court to the effect that in case adverse situation, if any, arises after adjudication of the appeal on merit, he will refund the amount within stipulated period as directed by this Court. Definitely, it would sub-serve the purpose for substantial justice in this matter. Accordingly, the Civil Application stands allowed in terms of prayer clause 'B' and disposed of in above terms.

[K. K. SONAWANE]
JUDGE

rrd.