

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

**CIVIL APPLICATION NO. 15550 OF 2016
IN
FIRST APPEAL STAMP NO. 30523 OF 2016**

Vanita Arun Chaudhari and others ...APPLICANTS

versus

M/s. Hindustan Trading Corporation
and others ...RESPONDENTS

.....
Mr. Vijay B. Patil, Advocate for applicants
Mr. Swapnil S. Rathi, Advocate for respondent No. 2

.....
CORAM : K.K. SONAWANE, J.

DATED : 11th SEPTEMBER, 2017.

Order :-

1. Heard learned counsel appearing for the parties. Despite service of notice, none has appearance on behalf of respondents No. 1 and 3.

2. The applicants moved present application for condonation of 778 days delay caused in filing the first appeal against the impugned Judgment and Award passed by the learned Tribunal in MACP No. 389 of 2007. According to learned counsel for the applicants-appellants, the so-called delay was not intentional or deliberate, but it caused due to domestic difficulty to the applicants. The matter pertains to the compensation arising out of the vehicular accident, causing death of deceased Arun Vasudeorao Chaudhary, therefore, he requested to condone the delay.

3. Learned counsel for respondent No. 2 - Insurance Company submits that he has no objection to condone the delay subject to condition that applicant shall not claim interest, for the delayed period sought to be condoned, in case, any enhanced compensation is awarded by this Court after adjudication of appeal on merit.

4. In view of aforesaid submissions and reasons mentioned in the application, I do not find any impediment to allow the application on the aforesaid condition. It would not caused any injustice or prejudice to the respondent-Insurance Company. It would sub-serve the purpose for substantial justice. Moreover, learned counsel for the applicants is ready to waive the interest on the enhanced amount of compensation for the delayed period sought to be condoned, in this appeal. Hence, the application is allowed in terms of prayer clause "B". The delay caused to present the appeal against the impugned Award passed by the learned Tribunal in MACP No. 389 of 2007 stands condoned subject to condition that applicants-appellants shall not claim the interest for the delayed period sought to be condoned on the enhanced amount, if any, awarded after final adjudication of present appeal on merit.

5. Pursuant to aforesaid waiver of interest, the applicant-appellant shall furnish undertaking to that effect and place it on record of the appeal to enable this Court to take note of the same, while decision of the appeal on merit. Registry to take requisite steps for further process.

6. The civil application is allowed in aforesaid terms and stands disposed of.

Sd/-

[K. K. SONAWANE]
JUDGE

MTK