

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

27 CIVIL APPLICATION NO. 12980 OF 2014
IN FAST/31007/2014

GODAVARIBAI PRAKASH MAGAR AND OTHERS
VERSUS
ORIENTAL INDIA INSURANCE COMPANY LTD.

...
Advocate for Applicants : Mr. M.S. Shaikh h/f Mr. Sachin S.
Deshmukh

CORAM : K.K. SONAWANE, J.

DATED : 11th DECEMBER, 2017.

Order :-

Heard learned counsel for the applicants. Perused the application. Despite service, none appeared on behalf of respondent-Insurance Company.

2. This is an application for condonation of 2194 days delay caused in filing the first appeal against impugned judgment and award passed by learned Motor Accident Claims Tribunal, Hingoli, in MACP No. 211 of 2005. It has been alleged that death of deceased Prakash Ashruji Magar was caused due to vehicular accident. But, the Tribunal after appreciating the evidence on record arrived at the conclusion that the deceased Prakash died due to natural calamity and in the storm the zinc sheet came to be banged on the head of deceased resulting into his death. According to applicants, they were under *bonafide* belief that proceeding was pending before the Tribunal. Moreover, they used to travel from place to place through out year for eking livelihood on account of death of deceased Prakash. Therefore, they could not file the first appeal within prescribed period of limitation.

3. After perusal of relevant documents on record, it reveals that the reasons mentioned in the application for condonation of delay appears to be not sustainable, reasonable and satisfactory to condone such inordinate delay for granting opportunity to the appellant to approach

to the appellate forum for redressal of their grievance. The claim petition came to be filed in the year 2008. In the petition before Tribunal, it has been mentioned that the deceased was earning Rs. 30,000/- to Rs. 40,000/- per annum. In such circumstances it is fallacious to accept that the applicants used to travel from place to place through out year for eking livelihood. There is huge delay and same is not properly explained. There is no propriety to condone the delay after efflux of such colossal period. The Tribunal has concluded that the present case does not cover under the motor vehicular accident, but it was a case of natural calamity resulting into death of deceased. Therefore, application deserves to be rejected. Accordingly, Application stands rejected. No order as to costs.

Sd/-

[K. K. SONAWANE]
JUDGE

MTK.