

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

942 CIVIL APPLICATION NO. 16389 OF 2016
IN FAST/33145/2016

TEDYA DITYA VASAVE AND ANR
VERSUS
PUNYA NANYA VASAVE AND ANR

...
Advocate for Applicants : Mr. Shrikant S. Patil
Advocate for Respondent No. 2 : Mr. S.R. Bagal
...

CORAM : K.K. SONAWANE, J.

DATED : 8th NOVEMBER, 2017.

Order :-

1. Heard learned counsel for the applicants and respondent No. 2- Insurance Company. Despite service of notice, respondent No. 1 remained absent and not caused his appearance in this matter. In view of the nature of the proceedings, there is no impediment to proceed in absence of respondent No. 1 for decision of the application on merit.
2. This is an application for condonation of 127 days delay in filing the first appeal against impugned Judgment and Award of the Tribunal in MACP No. 290 of 2012. According to learned counsel for the applicant, the delay is not intentional or deliberate, but it caused due to unavoidable circumstances.
3. Learned counsel for respondent No. 2 - Insurance company raised the objection and also submits that delay has not been properly explained and same may not be condoned.
4. In view of the nature of subject-matter and reasons mentioned in the application, I do not find any impediment to condone the delay.

It would not cause any injustice or prejudice to respondents. In contrast, it would facilitate substantial justice in the matter. Hence, the application stands allowed in terms of prayer clause "B". The delay caused in filing the first appeal against impugned Judgment and Award is hereby condoned. Registry to take requisite steps for further process. The civil application stands disposed of accordingly.

5. On registration of appeal, issue notice to respondents, returnable on 19th December, 2017. Mr. Bagal, learned counsel waives service of notice on behalf of respondent No. 2.

6. In addition to court process, appellant shall serve the notice to respondent No. 1 privately by any legally acceptable mode and file affidavit of service of notice along with tangible proof of service by returnable date.

[K. K. SONAWANE]
JUDGE

MTK