

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

CIVIL APPLICATION NO. 2581 OF 2017 IN FAST/34210/2016

THE SECRETARY, MAHARASHTRA STATE ROAD TRANSPORT
CORPORATION

VERSUS

SUNITA VASANT @ SANTOSH JADHAV AND OTHERS

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Advocate for Applicant : Mr. M. D. Gitte h/f. Mr. B. S. Deshmukh.

Advocate for Respondents No.1 to 5 : Mr. A. S. Gandhi.

Advocate for Respondent No. 6 : Mr. S. N. Rodge.

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CORAM : K.K. SONAWANE, J.

DATED : 05TH DECEMBER, 2017.

Order :-

Heard learned counsel for applicant and learned counsel for respondents No. 1 to 5 (original claimants) and respondent No.6 – owner of the offending vehicle. Despite service of notice, none appears for respondent No. 7- Insurance Company. Perused application and relevant documents on record.

2. This is an application for condonation of delay of 91 days caused for filing First Appeal against the impugned Judgment and Award passed by the Member of Motor Accident Claims Tribunal, Ahmednagar, in Motor Accident Claim Petition No. 188 of 2010 dated 11-04-2016.

3. According to learned counsel for applicant, so-called delay is not intentional or deliberate, but it was caused due to unavoidable circumstances. The matter pertains to the compensation under Section 166 of the Motor Vehicles Act, 1988, arising from the vehicular accident. Hence, he prayed to condone the delay.

4. In view of aforesaid submission and attending circumstances, it would be justifiable to provide one more opportunity to the applicant to ventilate its grievance before the Appellate Forum

for redressal. In case, delay is not condoned, it would cause injustice or prejudice to the applicant. Therefore, considering the reasons mentioned in the application, there is no impediment to condone the delay in the interest of justice, by adopting liberal and pragmatic approach. Hence, application stands allowed in terms of prayer clause (B). The delay of 91 days caused for filing First Appeal against impugned Judgment and Order passed by the learned Tribunal in Motor Accident Claim Petition No. 188 of 2010 dated 11-04-2016 is hereby condoned. Registry to take requisite steps for further process.

5. On registration of appeal, issue notice for admission of the appeal to the respondents, returnable on 16th January, 2018.

6. Mr. A. S. Gandhi, learned counsel, waives service of notice for respondent No.1 to 5. Mr. S. N. Rodge, learned counsel, waives service of notice for respondent No.6.

7. In addition to regular mode of service, applicant (original claimant) shall serve the notice to respondents No. 7- Insurance Company, privately by fastest legally acceptable mode and file affidavit of service of notice on record with tangible proof to that effect by the returnable date.

8. Meanwhile, call for record and proceedings from the concerned Tribunal.

[K. K. SONAWANE]
JUDGE

rrd.