

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

**CIVIL APPLICATION NO. 737 OF 2017
IN
FIRST APPEAL STAMP NO. 36504 OF 2016**

Prashant Bhagwat Patil

...APPLICANTS

versus

Satnosh Sundarlal Israni and another

...RESPONDENTS

.....
Mr. M.M. Bhokarikar, Advocate for applicants

Mr. S.S. Dargad, Advocate for respondent No. 1

Mr. Dhananjay Deshpande, Advocate for respondent No. 2

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CORAM : K.K. SONAWANE, J.

DATED : 11th SEPTEMBER, 2017.

Order :-

1. Heard learned counsel appearing for the parties.
2. The learned counsel for applicant submits that so-called delay caused in filing the appeal against the impugned Judgment and Award passed by the learned Member, Motor Accident Claims Tribunal in MACP No. 231 of 2006 was not intentional or deliberate, but it caused due to unavoidable circumstances. He further added that the applicant will not claim the 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.
3. The learned counsel for respondents- Insurance Company raised objection and submits that there is inordinate delay and the same has not been properly explained and they prayed that application be rejected.
4. Heard learned counsel for both sides. Perused the application. Admittedly, the matter pertains to the compensation arising out of injuries caused to the applicant in the vehicular accident. The applicant

preferred claim petition under section 166 of the Motor Vehicles Act for determination of compensation amount. According to applicant, meagre amount was calculated by the learned Tribunal, which is inadequate and not sufficient. He claims for enhanced compensation amount by filing present appeal under section 173 of the Motor Vehicles Act.

5. In view of the nature of subject-matter, I find it appropriate to give sufficient opportunity to the applicant-appellant to ventilate his grievance before the appellate forum. In case, the delay is not condoned, it would caused injustice or prejudice to the applicant. Moreover, learned counsel for the applicant 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. 231 of 2006 stands condoned subject to condition that applicant-appellant 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.

6. 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.

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

Sd/-

[K. K. SONAWANE]
JUDGE