

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.1197 OF 2008
IN
FIRST APPEAL (ST) NO.5074 OF 2008**

The New India Assurance Co. Ltd. ..Applicant/Appellant

V/s.

Ram Kishore Shukla & Anr. ..Respondents

Mr.I.R. Kulkarni for the Applicant/Appellant.

Mr.V.M. Parkar for the Respondent.

CORAM : M. S. SONAK, J.

Date of Reserving the order : 25 JANUARY 2017

Date of Pronouncing the order : 31 JANUARY 2017

P.C.

1. Although the delay in institution of the appeal is only 78 days, the applicant, has unduly protracted this matter since the year 2006. Despite opportunities no service was effected upon the unserved respondents. Ultimately by order dated 24-02-2016, upon motion by the learned counsel for the applicant, respondent no.2, the owner of the vehicle involved in the accident, was permitted to be deleted. The objection that the appeal itself might not be maintainable, consequent upon

deletion of the owner, was kept open.

2. Today, Mr.Kulkarni submitted that in case the delay in the institution of the appeal is condoned, the appeal can be immediately taken up for final disposal. Taking into consideration the limited ground which the appellant seeks to press in support of this appeal.

3. For the reason set out in the Civil Application, the delay of 78 days in institution of the appeal is condoned. However, the applicants shall pay cost of Rs.10,000/- to the respondent-claimants. Such cost to be paid within 4 weeks from today.

(M. S. SONAK, J.)