

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

**CIVIL APPLICATION NO.1734 OF 2016
IN
FIRST APPEAL (ST) NO.21103 OF 2015
WITH
CIVIL APPLICATION NO.1735 OF 2016
IN
FIRST APPEAL (ST) NO.21103 OF 2015**

Bajaj Allianz General Insurance
Company Ltd.

..Applicant/Appellant

V/s.

Mr.Shaju Seelan & Ors.

..Respondents

Mr.M.M. Sathaye for the Applicant/Appellant in both Civil Applications.

Mr.Abhishek Deshmukh a/w Mr.Balvendra Singh I/by Mr.Sanjiv Sawant for Respondent Nos.1 and 2.

CORAM : M. S. SONAK, J.

DATE : 28 FEBRUARY 2017.

P.C.

1. Heard Mr.Sathaye for the appellant and Mr.Abhishek Deshmukh for the respondent Nos.1 and 2.

2. Mr.Sathaye states that all the respondents are duly served and affidavit of service is also filed. Delay is of 184 days in instituting this appeal. The explanation of such delay is set out in

paragraph No.10 of the Civil Application. The ground that such delay was on account of the corporate procedure is clearly unacceptable. This ground is completely vague and on the basis of such ground condonation of delay can not be applied for in the routine course.

3. However, it is stated that there are attempts at settlement. Certain details have also been sought out with regard to the settlement. Further, it is stated that there was some delay on the part of advocate in preparing the appeal memo and thereafter sending the same for approval. Thereafter, the memo was approved but again, there was some communication gap on account of which the approved appeal memo could not be sent back. All this has occasioned the delay of about 184 days in the institution of the appeal. Mr.Sathe states that the MACT has relied upon an amendment to the MACT Act effected by the State of Uttar Pradesh. He submits that such amendment is not applied in the State of Maharashtra and therefore the appellant had good case for success.

4. Upon consideration of the cause shown, the delay in this case should be condoned subject to the payment of cost. Accordingly, the Civil Application is allowed. Delay is condoned

subject to the payment of cost of Rs.7,500/-. Such cost is to be paid to respondent No.1 who shall receive the same on behalf of the respondent No.2 as well. In case there is any difficulty cost can be deposited in this Court and the respondent No.1 shall be at liberty to withdraw the amount deposited in this Court unconditionally. In case the amount of cost is not paid within a period of four weeks, this Civil Application shall deemed to have been dismissed.

5. Place this matter for admission on 27 March 2017.

6. The MACT to invest the amount in a Nationalized Bank for the initial period of one year.

(M. S. SONAK, J.)