

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

**FIRST APPEAL (ST.) NO. 27930 OF 2014
WITH
CIVIL APPLICATION NO. 3731 OF 2014
IN
FIRST APPEAL (ST.) NO. 27930 OF 2014**

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

Versus

Shri.Satyaprakash Ayodhya Gupta & Anr. ...Respondents

**WITH
FIRST APPEAL (ST.) NO. 27930 OF 2014
WITH
CIVIL APPLICATION NO. 1807 OF 2017
IN
FIRST APPEAL (ST.) NO. 27930 OF 2014**

Shri Satyaprakash Ayodhya Gupta ...Applicant

IN THE MATTER BETWEEN

The New India Ass. Co. Ltd. ...Appellant

Versus

Shri.Satyaprakash Ayodhya Gupta & Anr. ...Respondents

.....

Ms.Poonam Mittal for the Applicant in CAF No. 3731 of 2014.
Mr.Shivkumar R.Gupta for the Applicant in CAF No. 1807 of 2017

.....

CORAM: MRS.MRIDULA BHATKAR, J.
DATED: NOVEMBER 10, 2017

P.C. :

CIVIL APPLICATION NO. 3731 OF 2014

1. This is an application for condonation of delay of 161 days in preferring the appeal.
2. Learned counsel for the applicant/ insurance company submits that there is a delay of 161 days in filing the First Appeal. She further submits that the insurance company has served on respondent no. 2, who is owner of the vehicle, by publication, however, he has not appeared. She prays that the delay of 161 days be condoned.
3. Learned Counsel for the original claimant is present and submits to the orders of the Court.
4. In view of the submissions, the delay of 161 days is condoned. Appeal be numbered.
5. Civil Application stands disposed of.

CIVIL APPLICATION NO. 1807 OF 2017

6. This Application is moved for withdrawal of an amount deposited by the insurance company/original appellant pursuant to the judgment and award dated 28.10.2013 passed by the Motor Accident Claims Tribunal, Mumbai, in M.A.C.P. No. 369 of 2008.

7. The learned counsel for the applicant submits that it is an injury claim. He further submits that the applicant has sustained 30% permanent disability. He prays that the applicant be allowed to withdraw the entire amount of compensation.

8. Learned Counsel for the insurance company submits that it is a case of contributory negligence and the insurance company has good case on merits.

9. In view of the submissions, the applicant is allowed to withdraw Rs. 2 lakhs alongwith interest accrued thereon on an usual undertaking. The remaining amount is to be deposited in the fixed deposit in any nationalized bank.

10. Civil Application is allowed and accordingly disposed of.

(MRIDULA BHATKAR, J.)