

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

52 CIVIL APPLICATION NO. 1820 OF 2018
IN FAST/362/2018

BALU KISHAN GIRI
VERSUS
HANUMMAN BHANUDAS PAWAR AND ORS

...
Advocate for Applicant : Mr. Pavankumar S. Agrawal
Advocate for Respondent No. 3 : Mr. A.S. Usmanpurkar

...
CORAM : K.K. SONAWANE, J.

DATED : 2nd JULY, 2018.

Order :-

1. Heard learned counsel for applicant and respondent No. 3- Insurance Company. Despite service, no one else appeared on behalf of respondent No. 1. Respondent No. 1 is deleted as per order dated 05-02-2014.
2. Perused the application. Present application is filed by the applicant for condonation of 535 days delay caused in presenting the appeal against impugned judgment and awarded passed by the learned Member, Motor Accident Claims Tribunal, Parbhani in MACP No. 462 of 2011.
3. The learned counsel for applicant fervidly contends that the matter pertains to compensation under Motor Vehicles Act. Learned counsel for the applicant-claimant shown inclination to waive statutory benefit of interest etc. for the delayed period, in case any compensation came to be enhanced in present appeal. Therefore, he requested to allow the application.
4. Learned counsel Mr. Usmanpurkar for respondent No. 3 – Insurance Company raised objection and submits that there is inordinate delay caused in filing the appeal. The applicant - claimant did not explain the delay in proper manner. Therefore, so-called delay may not be condoned.

5. In view of submissions advanced on behalf both sides and reasons mentioned in the application, there is no impediment to condone the delay. It would not cause any injustice or prejudice to respondents. In contrast, it would sub-serve purpose for substantial justice. However, delay can be condoned by imposing certain conditions on the applicant. Hence, application deserves to be allowed.

6. In sequel, application is allowed in terms of prayer clause "B". The delay caused to present the appeal against the impugned Judgment and Award stands condoned subject to condition that applicant-appellant shall not claim statutory benefit of interest etc. for the delayed period allowed to be condoned, in case, any enhanced compensation is awarded by this Court after adjudication of appeal on merit.

7. Pursuant to aforesaid waiver of statutory claim, the applicant-appellant shall furnish undertakings 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.

8. The civil application is allowed in aforesaid terms and stand disposed of.

9. On registration of appeal, issue notice to respondents No. 2 and 3, returnable on 1st August, 2018. Mr. Osmanpurkar, learned counsel waives service of notice for respondent No. 3.

10. Meanwhile, call for record and proceedings .

Sd-

[K. K. SONAWANE]
JUDGE

MTK.