

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

**953 CIVIL APPLICATION NO. 4583 OF 2018  
IN FAST/8658/2018**

SURYABHAN LAXMAN SHINDE AND ORS

..Applicants

VERSUS

LAXMAN PARAJI KATKAR AND ANR

..Respondents

...

Advocate for Applicants : Shri A.T. Kanawade;

Respondent No.1 – Served;

Advocate for Respondent No.2 : Shri M.M. Ambhore.

...

**CORAM : PR. BORA, J.**

Dated: September 25, 2018

**PER COURT :**

1. Heard Shri Kanawade the learned Counsel appearing for the appellants - applicants and Shri Ambhore the learned Counsel appearing for the respondent – Insurance Company.

2. Delay of 544 days has occurred in filing the present appeal by the appellants. The appellants are the original claimants. The claim petition filed by them has been dismissed by the Tribunal. The learned Counsel submitted that, after dismissal of the claim petition, the review application was filed, however, that also came to be rejected and thereafter the original claimants have approached this Court. The learned Counsel submitted that, the delay caused is unintentional and

for *bonafide* reasons. The learned Counsel submitted that, the appellants - applicants have a very good case on merits and the claim petition filed by the appellants has been dismissed by the Tribunal on erroneous grounds. The learned Counsel, therefore, prayed for allowing the application and to condone the delay, which has occurred in filing the appeal.

3. Shri Ambhore the learned Counsel appearing for the respondent – Insurance Company has opposed for condoning the delay. The learned Counsel submitted that, the applicants were throughout negligent in prosecuting their claim. In the circumstances, no case is made out for condoning the delay. The learned Counsel submitted that, even otherwise the Tribunal has passed a well reasoned order and in view of the fact that, the applicants have failed in proving that, the accident happened because of the rash and negligent driving of the offending vehicle, no interference is likely to be caused in the said order. The learned Counsel alternatively submitted that, if at all the delay is condoned, in the event of success in the appeal the appellants shall not be made entitled for the interest on the

amount of compensation for the period of delay.

4. After having considered the submissions, it appears to me that, the delay has been sufficiently explained by the applicants. However, having regard to the period of delay, which is more than 1 ½ years, the alternate submission made by the learned Counsel appearing for the respondent – Insurance Company also needs to be considered. Hence, the following order.

ORDER

- (i) Delay caused in filing the appeal is condoned.
- (ii) Appeal be registered in accordance with law.
- (iii) It is clarified that, in the event of success in appeal, the appellants shall not be entitled for the interest on the enhanced amount of compensation, if awarded, for the period of delay.
- (iv) Civil Application stands disposed of.
- (v) Copy of the present order be placed along with the papers of appeal.

( PR. BORA, J. )