

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

**910 CIVIL APPLICATION NO. 6541 OF 2018
IN FAST/13307/2018**

NAEMUDDIN ALEEMUDDIN
VERSUS
TRIVENIBAI BHAGWAT DHAKNE AND ORS

...
Advocate for Applicant : Mr. Hrishikesh V Tungar
Adv. for Respondent Nos. 1 to 3: Mr. S.R. Shirsath.

...

CORAM : V.L. ACHLIYA,J.

DATED : 1st August , 2018.

Order :-

1. The applicants have moved this application for condonation of delay of 163 days caused in filing the appeal for the reasons set out in detail in the application.

2. Learned counsel for the applicant submits that the delay caused in filing appeal was caused due to non-communication of judgment and order passed in the matter by his counsel. He came to know about passing of order making him liable to pay the amount only after he received communication from the Insurance company to send details about his salary. On enquiry, it was revealed that award has been passed in the matter, directing the insurance company to pay the amount in terms of award and to recover the same from the applicant. In this background, the learned counsel submits that the delay deserves to be condoned, otherwise, it would cause serious prejudice to the applicant.

3. On the other hand, learned counsel for respondent Nos. 1 to 3 opposed the application with contention that the cause assigned is not sufficient to condone the delay of 163 days. He submits that reasons assigned are concocted and by way of after-thought. He

submits that in case the application is allowed, same may be allowed subject to heavy costs.

4. Considering the submissions advanced, in the light of overall facts and the grounds raised in the appeal, and cause assigned for condonation of delay, I am of the view, delay deserves to be condoned. If delay is condoned, no serious prejudice would be caused to the respondents. I am, therefore, inclined to allow the application subject to payment of costs of Rs. 10,000/- to be paid to the Government Cancer Hospital, Aurangabad, within a period of two weeks from the date of order. On failure to deposit costs, the order stands recalled and application stands rejected.

5. For compliance of order, list the appeal for admission on 21st August, 2018.

[V.L. ACHLIYA]
JUDGE

grt.