

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

**CIVIL APPLICATION NO. 2841 OF 2016
WITH
FIRST APPEAL (ST.) NO. 10430 OF 2016**

The Manager, The New India Assurance Co. Ltd. ... Appellant/Applicant
V/s.
Pragati Pradip Yerunkar & Ors. ... Respondents

Mr. D.R. Mahadik for the Appellant/Applicant.
Mr. T.J. Mendon for Respondent Nos.1 to 4.
Mr. V.V. Salunke for Respondent No.5.

CORAM : K.K. SONAWANE, J.

DATE : 14th AUGUST, 2018.

P.C. :

1 Heard the learned Counsel for the appellant-Assurance Company and the learned Counsel for Respondents- original claimants as well as the learned Counsel for Respondent No.5- owner of the offending vehicle. The appellant-Assurance Company moved the present application seeking condonation of 234 days delay for presenting an appeal against the impugned judgment and award passed by the M.A.C.T. Mangaon, Raigad in M.A.C.P. No.169 of 2010. The learned Counsel for the appellant-Assurance Company submits that the delay caused to file an appeal is not intentional

and deliberate but caused due to the compliance of official process. He requested to condone the delay. The learned Counsel for Respondents-original claimants raised the objection and submit that the delay has not been properly explained and, therefore, same may not be condoned.

2 In view of reasons mentioned in the application and the attending circumstances on record, there is no impediment to condone the delay to afford an opportunity to appellant-Assurance Company to approach the appellate forum for redressal which would not cause any injustice and prejudice to Respondents. In contrast it would sub-serve the purpose in the interest of justice. Hence, the application deserves to be allowed.

3 Accordingly, the application stands allowed in terms of prayer clause (a). The delay caused for presenting an appeal against the impugned judgment and award passed by the M.A.C.T. Mangaon, Raigad in M.A.C.P. No.169 of 2010 is hereby condoned. The Registry to take requisite steps for further process. Accordingly, the application stands disposed of in above terms.

4 On registration of Appeal, issue notice of admission of the appeal to the Respondents, returnable on 17.09.2018. Learned Counsel Mr.

Mendon waives service of notice for Respondent Nos.1 to 4-original claimants and the learned Counsel Mr. Salunke waives service of notice for Respondent No.5-owner of the offending vehicle.

5 Meanwhile, call the record and proceeding from the concerned Tribunal. After compliance of formalities list the Appeal for admission on 17.09.2018.

(K.K. SONAWANE, J.)

Waishali
Sushil
Waghmare

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