

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

**CIVIL APPLICATION NO. 3486 OF 2015
WITH
FIRST APPEAL (ST.) NO. 17625 OF 2015**

The New India Assurance Co. Ltd. ... Appellant
V/s.
Vinit Bipinbhai Pujara & Anr. ... Respondents

Mr. D.R. Mahadik for the Appellant.
Ms. Sushma Praful for Respondent No.1.

CORAM : K.K. SONAWANE, J.

DATE : 25th JULY, 2018.

P.C. :

1 Heard learned Counsel for Appellant-Insurance Company and the learned Counsel for Respondent-Original claimant. The record of the proceeding indicates that the notice to the Respondent No.2 was issued through R.P.A.D. but the envelope return with postal remarks as 'refused'. Therefore, service to Respondent No.2 appears to be completed. Despite service of notice, no one else appears on behalf of Respondent No.2. The present Application is filed to condone the near about 60 days delay of presenting an Appeal against the impugned judgment and award passed by the M.A.C.T. Mumbai in M.A.C.T. Application No.2389 of 2009.

2 Learned Counsel for the Appellants submits that the so called delay caused for filing the First Appeal is not intentional and deliberate but caused due to unavoidable circumstances. The learned counsel for the Respondent-Original Claimant raised an objection and contends that the delay has not been properly explained and, therefore, it may not be condoned.

3 After appreciating the submission on behalf of both sides and the reason mentioned in the application, I find that the delay of 60 days for presenting an appeal is required to be condoned for awarding substantial justice. It is the settled principle of law that while dealing with application for condonation of delay, the Court should adopt the liberal and pragmatic approach by avoiding pedantic approach. In such circumstances the Application deserves to be allowed.

4 Accordingly, the Application stands allowed in terms of prayer clause (a). Delay caused for presenting an Appeal is hereby condoned. Registry to take requisite steps for further process. The Application is hereby disposed of in above terms.

5 On registration of Appeal, issue notice of admission to Respondents, returnable on 27.08.2018. Learned Counsel Ms. Sushma Praful waives service of notice for Respondent No.1.

(K.K. SONAWANE, J.)