

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

**80 CIVIL APPLICATION NO.2240 OF 2019
IN FAST/363/2019**

**HDFC ERGO GENERAL INSURANCE CO. LTD., THR ITS BRANCH MANAGER,
AURANGABAD**

VERSUS

DEVJI NANDLYA GAVIT AND ORS

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Advocate for Applicant : Mr. Deshmukh Mohit R.

Advocate for Respondents : Bharad Pratibha J For R/4

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CORAM : MANGESH S. PATIL, J.

DATE : 15.11.2019

PC. :-

Heard both the sides. The Insurance Company is seeking to challenge the judgment and award passed by the Tribunal in a motor accident claim preferred by the respondent nos.1 and 2 (the respondent no.2 has died during pendency of the claim petition).

2. The learned advocate for the Insurance Company submits that in fact in all eight claims were preferred which were arising from the same accident. Only the present claim and one more claim were decided earlier and the rest of the claim petitions were decided couple of years thereafter. There was a fraud in the office of the applicant and the matter was required to be reported to the police. An offence has also been registered and since its officers were busy in those matters the delay of 800 days has occasioned. The learned advocate further submits that the Insurance Company is seriously disputing the claim on the ground of breach of the terms and conditions in as

much as the driver was not holding valid and effective driving licence on the date of the accident. An opportunity needs to be given to establish this fact. The delay therefore be condoned.

3. The learned advocate for the respondent no.1-claimant and the learned advocate for the respondent no.4 who is the owner of the vehicle strongly oppose the application. They submit that there was no sufficient cause and the appeal has been preferred just to protract execution.

4. I have carefully gone through the papers. It has been specified in the application that it is only because of reasons mentioned herein-above that prevented it from preferring the appeal in time. There is no specific denial of the reasons by the respondents. There appears to be a serious dispute as regards the alleged breach of the terms and conditions.

5. Considering the aforementioned facts and circumstances the delay is condoned subject to the appellant-Insurance Company paying cost of Rs. 1,000/- to the respondent no.1 and the respondent no.4 each within four weeks. Application is disposed of.

[MANGESH S. PATIL, J.]