

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

928 CIVIL APPLICATION NO.2663 OF 2017
IN FAST/2131/2017

THE NEW INDIA INSURANCE COMPANY LTD. THR ITS BRANCH
MANAGER, AURANGABAD AND ORS
VERSUS
SK. RASUL AHMED ABDUL RAHIM AND ORS

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Advocate for Applicants : Mr. M. M. Ambhore
Advocate for the Respondents-Claimants : Mr. R.V. Gore h/f
Mr. A.R. Shaikh

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CORAM : V.L. ACHLIYA, J.

DATED : 29th MARCH, 2019

PER COURT:-

1. Heard the learned counsel for the appellant and respondents – claimants. None present for respondent nos.5 and 6.
2. The applicant- appellant has moved this application seeking condonation of 104 days delay in filing the appeal against the impugned judgment and award passed by the M.A.C.T. Aurangabad.
3. In brief, it is the contention of learned counsel for applicants that the delay caused in filing the appeal was not deliberate, but resulted due to time spend in securing the legal opinion and clearance from the head office of insurance company located at Nagpur. It is submitted that the applicant – appellant has good case to succeed in the appeal. In case, delay is

condoned no serious prejudice would be caused to the respondents, as ultimately the appeal will be decided on merit. However, if delay is not condoned there is every likelihood that a serious prejudice may be caused to the applicant – appellant, as possibility of meritorious matter may be dismissed for technical reasons can not be ruled out.

4. On the other hand, learned counsel for respondents opposed the application with contention that the cause assigned in the application cannot be treated as a sufficient cause to condone the delay and urged to reject the application.

5. Considering the submissions advanced in the light of unchallenged pleadings made in the application, the cause assigned for condonation of delay as well as the grounds raised in the appeal, I am of the view that the delay has been sufficiently explained. I am, therefore, inclined to allow the application. Accordingly, the application is allowed in terms of prayer clause 'B'. Delay condoned. The appeal be registered and place for admission on 15.04.2019.

6. Civil Application stand disposed of in above terms.

(V.L. ACHLIYA)
JUDGE