

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

81 CIVIL APPLICATION NO.2628 OF 2019  
IN FAST/2293/2019

KADUBA GOPINATH RATHOD  
VERSUS  
RAJU MOTIRAM ALHAT AND ORS

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Advocate for Applicant : Mr. Tambe Rahul A.  
Advocate for Respondents : Mr. Patil Ujwal Subhash for R/1  
Advocate for Respondents : Mr. Chapalgaonkar S.G. For R/3

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**CORAM : MANGESH S. PATIL, J.**  
**DATE : 15.11.2019**

**PC. :-**

Heard both the sides.

2. The claimant who filed a petition under Section 166 of the Motor Vehicles Act is before this Court is seeking to impugn the order passed by the Tribunal directing return of the petition to him for presentation to the proper Tribunal for want of territorial jurisdiction. Since there is a delay, by way of this application he is seeking its condonation.

3. The learned advocate for the applicant submits that he had sustained a fracture and had *bona fide* preferred the petition claiming compensation. The Tribunal has illegally refused to exercise the jurisdiction

and has directed return of the petition. His valuable right to claim compensation would be lost if the delay is not condoned.

4. The learned advocates for the respondents opposes the application. They submit that there are no sufficient ground and the delay may not be condoned. Alternatively, they submit that in case the delay is to be condoned the applicant may be held to be not entitled to claim interest for the period of delay in case his appeal is allowed.

5. Considering the fact that it is a matter of compensation under the Motor Vehicles Act, in my view some sympathetic view needs to be taken more so when the Tribunal has refused to exercise the jurisdiction holding that it had no territorial jurisdiction. However, as has been rightly submitted by the learned advocates for the respondents, since it is a matter of delay of about two years, the applicant may not be held to be entitled to claim interest for that period as a condition for condoning the delay.

6. The application is allowed. The delay is condoned subject to the condition that the applicant shall not be entitled to claim interest for the period of delay of 774 days.

**[MANGESH S. PATIL, J.]**