

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

83 CIVIL APPLICATION NO.3876 OF 2019
IN FAST/3905/2019 WITH CA/3877/2019

VISHAL VIJAY GHOLAP
VERSUS
SHRIKANT ANANTKUMAR AUTI MINOR U/G FATHER ANANTKUMAR
NAMDEO AUTI AND ORS

...
Advocate for Applicant : Mr. Kasar Rajendra S.
Advocate for Respondent No.2 : Mr. Tejas Bedre h/f
Mr. B. B. Shelke
Advocate for Respondent No.3 : Ms. Pooja H. Tayde h/f
Mr. S. G. Chapalgaonkar
...

CORAM : MANGESH S. PATIL, J.

DATE : 08.11.2019

PER COURT :-

Heard.

2. The applicant is owner, who has been saddled with the compensation under the M. V. Act on account of an accident by use of a vehicle owned by him. The Insurance Company has been exonerated on the ground that there was a breach of the terms and conditions of the policy.

3. Learned advocate for the applicant submits that he would stand to lose an opportunity to seek enforcement of the

insurance policy, which was a contractual obligation on the part of the respondent Insurance Company, if appeal is not allowed to be filed. There was no ulterior motive for the applicant not to prefer the appeal in time. He submits that in fact there was no proper service of the summons and the matter has been decided ex-parte.

4. Learned advocates for the respondents oppose the request.

5. Considering the reasons mentioned in the application, prima facie there are no circumstances to doubt bonafides on the part of the applicant. Rather there are no allegations about there being any ulterior motive for him not to prefer appeal in time. Delay is of 184 days. It is condoned subject to applicants paying costs of Rs.2,000/- to respondent Nos. 1 & 2 and another Rs.2,000/- to respondent No.3 within four weeks from today.

6. Learned advocate for the appellant at this juncture states

that the execution be also stayed and the applicant is ready to deposit 50% of the amount of compensation within six weeks from today in this Court.

7. Subject to condition that applicant deposits Rs.40,000/- (Rs. Forty thousand) in this Court within six weeks, there shall be stay to the execution of the award.

8. Both the civil applications are accordingly disposed of.

(MANGESH S. PATIL, J.)

vsm/-