

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

**CIVIL APPLICATION NO.4811 OF 2013
WITH FAST/6686/2013**

**GOPINATH RANGNATH VIRKAR
VERSUS
SUBHASH RAMBHAU SANGDE AND ANOTHER**

Mr. N.C. Garud, Advocate for the applicant
Mr. S.N. Pagare, Advocate for respondent No.2.

**CORAM : S.M.GAVHANE, J.
DATED : 20.02.2019**

P.C. :-

1. Heard learned counsel for the applicant and respondent No.2-National Insurance Co.Ltd.

2. The applicant/original claimant has sought to condone 168 days delay caused in filing the appeal against award passed by the MACT, Ahmednagar in MACP No. 679 of 2008 whereby the Tribunal has awarded lumpsum amount of compensation of Rs.75,000/- instead of Rs. 2,00,000/- claimed by the claimant.

3. Learned counsel for the applicant has submitted that the impugned award is dated 16.06.2012. The respondents did not deposit the amount of compensation. Therefore, the applicant/claimant had to file application for execution of award. Thereupon, the respondents recently deposited the amount of compensation and only on receiving the amount of

compensation applicant/claimant could apply for certified copies of judgment and award on 17.12.2012 and thereupon after receiving the said copies and collecting necessary fees and expenditure for filing the appeal, the appeal came to be filed with the delay condonation application. It is submitted that delay caused in filing appeal is not intentional. The applicant suffered 40% permanent disability, but the Tribunal without properly considering said aspect granted lumpsum amount of compensation, which needs to be reconsidered in the appeal. It is submitted that to decide the aspect whether the applicant is entitled to claim compensation as was claimed in the original application, this application needs to be allowed and delay caused in filing appeal needs to be condoned in the interest of justice.

4. None appears for respondent No.1 owner of the motor vehicle involved in the accident though served with the notice.

5. Learned counsel for respondent No.2- National Insurance Co.Ltd has opposed application. It is submitted that Insurance Company did not admit the certificate of 40% permanent disability filed by the applicant/claimant. Delay caused in filing appeal has not been properly explained by the applicant.

6. Considering the submissions made by the learned

counsel appearing for the applicant and respondent No.2 and on considering the aspect that only after getting the amount of compensation as per the award under challenge in the appeal, the applicant applied for obtaining certified copies of judgment and award and then after collecting the said copies he could file appeal with this delay condonation application, I find that applicant has properly explained the delay caused in filing the appeal and there is sufficient grounds to condone the same. Therefore, said delay is to be condoned in the ends of justice. Therefore, application is allowed. Delay caused in filing appeal is condoned.

7. Appeal be registered. On registering the appeal issue notice to the respondents, returnable on 03.04.2019 for final disposal at the stage of admission.

8. Mr. S.N. Pagare, learned Advocate waives service of notice for respondent No.2.

[S . M . GAVHANE , J .]