

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

**CIVIL APPLICATION NO.3747 OF 2016
WITH FAST/8639/2016 WITH CA/3748/2016**

**SHRIDHAR NAGNATH JILHEWAD
VERSUS
DNYANOBA NAGORAO YALUMGUNDE AND ANR**

Mr. V.D. Gunale, Advocate for the applicant

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

P.C. :-

1. Heard learned counsel for the applicant.
2. Delay of 133 days caused in filing appeal against judgment and award in MACP No.40 of 2010 passed by the MACT, Kandhar, Dist. Nanded on 05.08.2015 is sought to be condoned by the applicant/original respondent No.1 owner of the motor vehicle involved in the accident.
3. Learned counsel for the applicant inviting my attention to the grounds of delay mentioned in paragraph No.2 of the application submitted that award is dated 05.08.2015. Though the Advocate had issued communication to the applicant informing that judgment and award has been passed, but as the applicant is residing in remote place, he could not receive the said communication and therefore he was not aware of the judgment and award. Thereafter, applicant approached the Advocate in February, 2016 and came to know that judgment and award was passed on 05.08.2015. Then applicant requested to his Advocate to obtain certified copy of the same on

10.02.2016, which was delivered to him on 16.02.2016 and then after obtaining private loan the applicant approached his Advocate and filed appeal. It is submitted that due to above ground delay has been caused in filing appeal and said delay is not intentional and therefore same needs to be condoned.

4. Respondent No.1-original claimant and respondent No.2-Insurance Company though served with the notice, none appeared for them.

5. Considering the grounds of delay referred to above, the submissions made by the learned counsel for the applicant and as the respondents have not opposed or denied the grounds of delay, I find that the applicant has properly explained the delay caused in filing appeal and there is sufficient ground to condone the same. Therefore, application is allowed. Delay is condoned.

6. Appeal be registered. On registering the appeal, issue notice to the respondents, returnable on 03.04.2019.

7. Civil Application No.3747 of 2016 claiming stay to the execution of award under challenge to be considered at the stage of admission of appeal, as requested by the learned counsel for the applicant/appellant.

[S.M.GAVHANE, J.]