

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

**995 CIVIL APPLICATION NO.9429 OF 2013
IN FAST/17726/2013**

**M/S NATIONAL INSURANCE CO. LTD.
VERSUS
VIMAL SHIVAJI MOTE AND OTHERS**

...
Advocate for Applicant : Mr. Upadhye Vinayak Narayan
Advocate for Respondent Nos. 1 to 5 : Mr. V P Latange
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 19th JULY 2019

ORDER :

. Present application has been filed by original respondent No.2 for getting the delay of 779 days condoned in filing the First Appeal. The Insurance Company intends to challenge the judgment and award passed by the tribunal. The learned Advocate for respondent Nos. 1 to 5 is raising objection on the ground that the delay is huge and inordinate and has not been properly explained.

2. It appears from the contents of the application that immediately after the pronouncement of the judgment, the Advocate for the Insurance Company had applied for the certified copy. Thereafter, a Review Petition was preferred before the said Court. Even the learned Court had passed an order of stay to the execution of the award and

thereafter, the review petition was rejected on 17.01.2013. We need not go into the aspect as to whether the review was maintainable and whether it could have been preferred or not. However, it was an attempt by the Insurance Company to get certain clarification if at all it can be said and to review its liability. Therefore the time consumed by the Insurance Company in preferring the review petition and then the time taken by the Court to decide, it will have to be excluded. Under such circumstance, there appears to be delay of only 87 days and that deserves to be condoned for the reasons mentioned in the application itself. Hence, delay stands condoned.

3. Civil Application stands allowed and disposed of accordingly.

4. Registry to verify and register the First Appeal and place it for further consideration on 18.09.2019.

(Smt. Vibha Kankanwadi, J.)

Shubham/