

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

**CIVIL APPLICATION NO.2953 OF 2016
WITH FAST/24054/2015**

**YUVRAJ MADHAV CHAVAN AND ANR
VERSUS
KAILAS CHENSING NAIK AND ORS**

Mr. V.P. Patil, Advocate for the applicants
Mr. N.R. Thorat, Advocate h/f Mr. A.K. Tiwari, Advocate
for respondent Nos.1 to 3.

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

P.C. :-

1. Heard learned counsel for the applicants and respondents.
2. Applicants/original respondent Nos.1 and 2 respectively owner and driver of the motor vehicle involved in the accident have sought to condone 70 days delay caused in filing appeal against judgment and award dated 21.02.2015 passed in MACP No.393 of 2007 by the MACT, Jalgaon.
3. Learned counsel for the applicants inviting my attention to the grounds mentioned in the paragraph No.3 of the application submitted that though the certified copies of judgment and award were received by the applicants within time, they could not approach their Advocate within time to make arrangement of filing an

appeal against the award passed by the tribunal due to some agricultural works which were going on in their fields at the relevant time. It is submitted that after the applicants approached their Advocate with documents to file an appeal time was already wasted in making arrangement of money for paying the court fees for filing an appeal. As such according to the learned counsel delay which has been caused in filing the appeal is neither intentional nor deliberate. It is submitted that said delay be condoned in the ends of justice.

4. Learned counsel appearing for the respondents/original claimants opposed to grant the application on the ground that delay has not been properly explained.

5. Though the learned counsel for the respondents has opposed to grant the application, considering the grounds of delay mentioned earlier and the submissions made by the learned counsel for the applicants, I find that the applicants have properly explained delay caused in filing appeal and there is sufficient ground to condone the same. Therefore, the application is allowed. Delay caused in filing the appeal is condoned in the interest of justice.

6. Appeal be registered. On registering the appeal issue notice to the respondents/original claimants, returnable on 22.04.2019.

7. Mr. N.R. Thorat, Advocate h/f Mr. A.K. Tiwari, Advocate waives service of notice for respondent Nos.1 to 3.

8. Since the learned counsel for the applicants submitted that the issue involved in the appeal is short, the appeal is fixed on 22.04.2019 for hearing at the admission stage.

9. Call record and proceedings in MACP No.393 of 2007 from the Court of MACT, Jalgaon.

[S.M.GAVHANE, J.]