

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

**CIVIL APPLICATION NO.11545 OF 2012
WITH FAST/26410/2012 WITH CA/11546/2012 IN
FAST/26410/2012
THE NEW INDIA ASSURANCE CO. LTD.
VERSUS
SURESH IRRBA GAVALE AND ANR**

Mr. A.B. Kadethankar, Advocate for the applicant

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

P.C. :-

1. Heard learned counsel for the applicant.
2. There is delay of 131 days in filing appeal against award passed in MACP No.54 of 2007 in favour of the claimant/original respondent No.1 by the Member, MACT at Nanded on 21.01.2012 and the present respondent No.2 is the owner of the vehicle involved in the accident.
3. Learned counsel for the applicant submitted that the applicant-the New India Assurance Company Ltd is not liable to pay compensation to the claimant and delay has been caused as time was consumed in informing the Advocate for the applicant about the award passed against the applicant and delay has been caused in obtaining second opinion and in following necessary office procedure for sanctioning the appeal proposal as stated in paragraph No.10 of the application. It is

submitted that there is no willful negligence or deliberate delay on the part of the applicant and the delay is not inordinate. In case delay is not condoned, the applicant would suffer loss and the applicant has every hope of success in the appeal.

4. Though respondent No.2 is served by regular service and the respondent No.1 is served by publication of notice in the newspaper, none appear for both the respondents.

5. Considering the grounds of delay mentioned earlier and submissions made by the learned counsel for the applicant, I find that the delay has been properly explained and there is sufficient ground to condone the same to decide the matter on merits, in the interest of justice. Therefore application is allowed. Delay caused in filing appeal is condoned.

6. The appeal be registered. After registering the appeal issue notice to the respondents, returnable on 18.04.2019.

[S.M.GAVHANE, J.]