

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

**905 CIVIL APPLICATION NO.11241 OF 2017
IN FAST/28598/2017 WITH CA/13557/2018 IN
FAST/28598/2017**

**L AND T GENERAL INSURANCE COMPANY LTD., THR ITS
BRANCH MANAGER, MUMBAI**

VERSUS

SARUBAI RAMESH IGAVE AND ORS

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Advocate for Applicant : Shri S.G. Chapalgaonkar
Advocate for Respondents No.1, 3 to 6 : Shri A.P. Yenegure

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CORAM : PR. BORA, J.

Dated: January 30, 2019

PER COURT :-

1. When the present application was called out, it is revealed that, respondent no.7 is yet to be served in the matter. Respondent No.7 is the owner of the offending vehicle. Shri Chapalgaonkar, learned Counsel appearing for the applicant – Insurance Company submitted that, the claim petition was proceeded *ex-parte* against respondent no.7, since he did not cause his appearance in the matter. The learned Counsel further brought to my notice that, main contention of the appellant – Insurance Company in the appeal is that, the notice of the claim petition was not served on it and the claim petition has thus

been proceeded without due service of notice on the appellant – Insurance Company. The learned Counsel, in the circumstances, prayed for exempting the service of respondent no.7 and decide the present application filed for condonation of delay.

2. Shri Yenegure, learned Counsel appearing for the respondents – claimants does not have any objection for deciding the application for delay in view of the submissions made on behalf of the appellant – Insurance Company.

3. The delay is stated to have caused for the reason that, the appellant – Insurance Company came to know about the passing of the impugned Award only when the notice in the execution proceeding was served upon it. As noted herein above, it is the contention of the appellant – Insurance Company that, the notice of the claim petition was not served upon it, but was served upon some another company.

4. The learned Counsel for the appellant – Insurance Company has tendered across the bar the certified copy of the service report in Motor Accident Claim Petition No.12 of 2014.

The same is taken on record and marked as Exh. 'X' for the purpose of identification.

5. From the said report, it is discernible that, the notice was served upon L & T Ltd and not on the L & T General Insurance Company Ltd i.e. appellant – Insurance Company. In the above circumstances, I am inclined to condone the delay, which has occasioned in filing the appeal by the appellant – Insurance Company. Hence, the following order.

ORDER

(i) Delay caused of 503 days in preferring the Appeal is condoned. Appeal be registered in accordance with law. Civil Application for condonation of delay stands disposed of.

(ii) On registration of the appeal, issue notice to the respondents. Learned Counsel Shri Yenegure waives notice for respondents no.1 to 6. Service of notice to respondent no.7 is exempted. Service complete.

(iii) List the appeal for further consideration on **31.01.2019**.

(PR. BORA, J.)