

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO.2367 OF 2019

WITH

CIVIL APPLICATION NO.2368 OF 2019

WITH

FIRST APPEAL (ST.) NO.35443 OF 2017

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Ms.Ashwini Jadhav a/w Mr.Devendranath
Joshi for the applicant

CORAM : K. K. TATED, J
DATE : AUGUST 16, 2019

P.C.:

. Heard.

2 By this Civil Application, Applicant original Insurance Company is seeking condonation of 1 year 253 days delay in filing First Appeal challenging the order dated 5.1.2016 passed by MACT, Kolhapur below Exhibit 5 in MACP No.174 of 2015 allowing Respondent original Claimants Application under section 140 of the Motor Vehicles Act, 1988 directing Applicant to deposit sum of Rs.50,000/- within a period of one month from

the date of order failing which, the amount shall carry interest @ 9% p.a.

3 The learned counsel for the Applicant submits that before filing First Appeal, they have to take approval from several departments. Hence, there is delay in filing First Appeal before this court. She submits that they have good chance of success in the present matter. She submits that Tribunal failed to consider that the Applicant has proved the defence of non-maintainability of the claim petition as well as non-coverage of the deceased under the Insurance Policy. She submits that inspite of that the Tribunal directed them to deposit sum of Rs.50,000/- within a period of one month. She submits that they have good chance of success in the present proceeding. She submits that in the interest of Justice, this Hon'ble court be pleased to condone the delay in filing First Appeal.

4 It is to be noted that in the present proceeding, though the order was passed by the Tribunal below Exhibit 5 in MACP No.174 of 2015 on 5.1.2016, Applicant filed Application for certified copy on 1.3.2017. Same was ready for delivery on 10.3.2017. Thereafter, Applicant filed the present First Appeal before this court in the month of December, 2017. In entire Civil Application,

there is no explanation, why Applicant took more than 1 year in applying for certified copy of impugned order. Not only that, though the certified copy was ready on 10.3.2017, present Civil Application was filed by the Applicant before this court, in the month of December, 2017. There is no explanation for the said delay i.e. from the receipt of certified copy i.e. March, 2017 to the date of filing i.e. December, 2017. This itself shows that Applicant has filed the present Civil Application in casual manner.

5 In view of above mentioned facts, I am of the opinion that Applicant failed to show sufficient cause for condonation of inordinate delay of more than 1 year and 253 days in filing First Appeal. Hence, following order is passed:

A. Civil Application stands dismissed.

B. In view thereof, Civil Application for stay and First Appeal do not survive. Hence, registration of First Appeal stands rejected.

C. Civil Application for stay stands dismissed as infructuous.

(K.K.TATED, J.)