

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL JURISDICTION**

**CIVIL APPLICATION NO. 1951 OF 2017
IN
FIRST APPEAL (ST) NO. 28957 OF 2016
WITH
CIVIL APPLICATION NO. 1952 OF 2017**

The New India Assurance Co. Ltd. .. Applicant

Versus

Suman Santosh Vishwakarma and Ors. .. Respondents

...

Mr. Sandeep Jinsiwale for the Applicant.

Mr. Saurabh Patil I/b. Nitesh Bhutekar for the Respondent No. 1
& 2.

CORAM: BHARATI DANGRE, J.

DATED : 29th AUGUST, 2019.

P.C:-

1. New India Assurance Company Limited has instituted the First Appeal being aggrieved by the judgment dated 4th February, 2016 by the Motor Accident Claims Tribunal, Mumbai in Claim Application No. 604/2018. In instituting the said First Appeal there is delay of 150 days and a separate Civil Application seeking condonation of said delay is also filed.

2. The learned counsel for the applicant submit that the reasons cited in the application demonstrate that on account of bonafide reason, the delay has occasioned. Learned counsel appearing for the respondent No. 1 and 2 vehemently opposed the said application and submitted that reasons cited do not justify condonation of delay.

3. On perusal of the said application and on hearing the learned counsel for the applicant and respondent No. 1 and 2, I deem it expedient to condone the delay of 150 days in filing the First Appeal. Since, sufficient cause is shown to not filing the appeal within the period of limitation.

4. Accordingly, Civil Application No.1951/2017 is allowed in terms of prayer clause (a). Registry is directed to register the First Appeal. Learned counsel Shri Saurabh Patil waives service for respondent No. 1 and 2. Issue notice to the respondent No. 3, 4 and 5, returnable after 4 weeks.

5. Civil Application No. 1952/2016 is taken out by the applicant seeking stay to the operation and execution of the impugned judgment dated 4th February, 2016. The learned counsel appearing for the applicant makes categorical submission that the appellant is ready and willing to deposit the entire amount awarded by the impugned judgment dated 4th February,

2016 before Motor Accident Claims Tribunal, Mumbai within a period of 4 weeks.

6. On such submission being made and subject to stipulation of deposit of the entire amount awarded by the M.A.C.T. by its order dated 4th February, 2016 within a period of 4 weeks, there shall be stay to the effect and operation of the impugned judgment.

SMT. BHARATI DANGRE, J