

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

**CIVIL APPLICATION NO.1413 OF 2013
IN
FIRST APPEAL (STAMP) NO.5676 OF 2013
WITH
FIRST APPEAL NO.1388 OF 2014**

Maimuna Wd/o Akhtar Bhopalwala ...Appellant/Applicant
Versus
New India Assurance Company
Limited ...Respondent

.....

Mr. Sayed Shamin with M. Slaterwala I/b. M/s. Shamim and Co. for
the Appellant and for the Applicant in CAF/1413/2013.
Mr. S.M. Dange for the Respondent No.3.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 21st JUNE, 2019.

P.C.:-

The Applicant herein has sought to condone the delay of 101 days in filing the first appeal. The learned counsel for the Respondent No.3 states that the Applicant has deleted the name of the driver and owner of the vehicle, who are party Respondents in the Claim Petition. He submits that the appeal itself would not be maintainable in the absence of the driver and the insured.

2. It is seen that this Court by order dated 14th November, 2014 had permitted the Applicant to delete the name of the

Respondent Nos.1 and 2. The issue in the present case is only regarding the quantum of compensation. The Respondent-Insurance Company has not raised any statutory defence. Considering the above facts, in my considered view this application can be disposed of by leaving open the issue of maintainability of appeal to be decided at the hearing of the appeal.

3. Having considered the reasons stated in paragraphs 3 to 7 of the application, which in my considered view constitute sufficient grounds, the application is allowed. Delay is condoned. The Appeal be registered.

4. Mr. S.M. Dange, the learned counsel waives service of notice on behalf of the Respondent No.3. The appeal be listed on **12/7/2019** for admission.

5. The Civil application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)