

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

**CIVIL APPLICATION NO. 2006 OF 2017
WITH
CIVIL APPLICATION NO. 3453 OF 2013
IN
FIRST APPEAL (ST.) NO. 36497 OF 2012**

New India Assurance Co. Ltd.Applicant
V/s.
Fahim Mohammed Hanif Shaikh & anr.Respondents

Ms. Poonam Mital for the applicant.
None for the respondents.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 07th JUNE, 2019.**

P.C.:-

. By Civil Application No.2006/2017, the applicant has sought to restore the application for condonation of delay in filing the first appeal as against the respondent no.2, which was dismissed for non compliance of conditional order.

2. Respondent no.2 has not contested the application, despite due service of notice.

3. Heard the learned counsel for the applicant. In paragraph 2 of the application, it is stated that the steps to serve the respondent no.2 were not taken due to inadvertence and negligence of counsel of the

applicant. In my considered view, the applicant cannot be penalized for negligence of the counsel / advocate.

4. The reasons stated in paragraph 2 of the Civil Application No.2006/2017, in my considered view, constitute sufficient grounds. Hence, Civil Application No.3453/2013 stands restored to file as against respondent no.2.

5. Civil Application No.2006/2017 stands disposed of.

6. List the Civil Application No.3453/2013 on 28/06/2019. The applicant to take steps to serve the respondent no.2 within one week from the date of this order.

(SMT. ANUJA PRABHUDESSAI, J.)