

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

**CIVIL APPLICATION (ST.) NO.18708 OF 2019  
IN  
FIRST APPEAL (ST.) NO.18707 OF 2019**

Shriram General Insurance Co. Ltd. .. Applicant

VS.

Sudhir Narayan Abba .. Respondent

Mr.Rohit Jadhav i/b M/s.NDB Law for the applicant

Ms.Kruttika Pokale i/b Mr.Avinash Gokhale for the respondent  
no.1

**CORAM : K. K. TATED, J  
DATE : JULY 16, 2019**

**P.C.:**

. Not on board. At the request of Advocate for the applicant,  
matter is taken on production board for urgent orders.

2 Heard.

3 By this Civil Application, Insurance Company is seeking  
condonation of 108 days delay in filing First Appeal challenging

the judgment and award dated 27.9.2018 passed by MACT Mumbai in Application No.2510 of 2010.

4 The learned counsel for the applicant submits that before filing any application, on behalf of applicant, they have to take decision at several levels. Hence, there is a delay in filing First Appeal. He submits that they have good chance of success in the present proceeding. He submits that in the interest of Justice, this Hon'ble Court be pleased to condone the delay in filing the present First Appeal. He submits that if delay is not condoned, irreparable loss will be caused to the applicant.

5 On the other hand, the learned counsel for the respondent no.1 original claimant vehemently opposed the present Civil Application. She submits that applicant has not shown sufficient cause for condonation of 108 days delay in filing First Appeal. Hence, there is no substance in the present Civil Application and same be dismissed.

6 Heard both the sides.

7 It is to be noted that in the present proceeding, there is a delay on the part of applicant to file First Appeal. The reason given by the applicant that they have to take decision at several levels before filing First Appeal on behalf of Insurance Company cannot be treated as sufficient ground for condonation of delay.

8 It is to be noted that the Apex Court in the matter of

***N.Balkrishnan Vs. M. Krishnamurthy (1998) 7 SCC 123*** held that the object of fixing the time limit is not meant to destroy the rights. The law of limitation fixes a lifespan for such legal remedy for the general welfare. Paragraph Nos.11, 12 and 13 of the said judgment read thus :

*11. Rules of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. Law of limitation fixes a life-span for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. Law of limitation is thus founded on public policy. It is enshrined in the maxim Interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the right of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.*

*12. A Court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" Under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide Shakuntala Devi Jain v. Kuntal Kumari, 1969 SC 575 and State of West Bengal v. The Administrator, Howrah Municipality, AIR 1972 SC 749.*

*13. It must be remembered that in every case of delay there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does*

*not smack of mala fides or it is not put forth as part of a dilatory strategy the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time then the court should lean against acceptance of the explanation. While condoning delay the Court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite a large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant the court shall compensate the opposite party for his loss."*

9 Considering the judgment of the Apex Court in the matter of N.Balakrishnan (Supra), I am of the opinion that delay can be condoned but at the same time, they have to pay cost of Rs.5,000/- to the respondent no.1. Hence, following order:

- a Delay in filing Civil Application is condoned.
- b Applicant to pay cost of Rs.5,000/- to the respondent no.1 or their advocate on or before 31.07.2019 and place on record receipt to that effect, failing which Civil Application shall stand dismissed without referring back to the court.
- c. If cost is paid within time, First Appeal to appear on board for admission and interim relief on 05.08.2019.

**(K.K.TATED, J.)**