

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**943 CIVIL APPLICATION NO.190 OF 2013
IN FIRST APPEAL STAMP NO.278 OF 2013**

**THE NEW INDIA ASSURANCE CO.LTD. AURANGABAD
VERSUS
UKHA AUCHIT PATIL & OTHERS**

...
Advocate for Applicant : Mr.Ajit B.
Kadethankar

Advocate for respondent no.5 : Mr.B.R.Warma
Advocate for respondent no.8 : Mr.Rupesh Bora
h/f. Mr.P.P.Bafna.

...
**CORAM : V.L.ACHLIYA,J.
DATE : 07.02.2020**

P.C.

1] The applicant has moved this application seeking condonation of 159 days delay in filing appeal for the reasons set out in detail in the application.

2] Heard learned counsel for the applicant-appellant and the advocate representing respondent nos.5 and 8. The respondent nos.1 to 4, 6, 7 and 9 though served absent.

3] In brief, it is the contention of the learned counsel for the applicant—

appellant that delay caused in filing appeal cannot be termed as deliberate and intentional. It is submitted that the delay was caused as the matter was required to be processed at different levels for seeking approvals from the various authorities of the company. After obtaining opinion of the Advocates representing the applicant - appellant, appeal was processed and proposal to file appeal was sent to the regional office at Nagpur, which in turn sent the proposal to the Divisional Office at Aurangabad. In the process, delay of 159 days has been caused in filing appeal. It is submitted that the applicant-appellant has good case to succeed on merits. The Tribunal has awarded the compensation making the applicant-appellant liable to pay compensation though deceased was traveling in goods vehicle and liability was not covered in terms of the policy and vehicle was used in breach of terms of policy.

4] On the other hand, learned counsel for the respondent Nos.5 and 8 opposed the application with contention that the reasons assigned are not sufficient to condone delay. It is submitted that the reasons assigned are

false and concocted and put-forth just to get condoned the delay.

5] On due consideration of overall facts of the case, reasons assigned for condonation of delay and pleadings made in the application assigning cause for condonation of delay, I am of the view that delay deserves to be condoned. If delay is condoned, no serious prejudice would cause to the respondents as ultimately appeal will be decided on its own merit. Keeping in mind broad principles laid down by the Apex Court in the case of ***Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy & others*** reported in (2013) 12 SCC 649, I am of the view that, delay deserves to be condoned. Accordingly, application is allowed in terms of prayer clause-B. Delay condoned.

4] Appeal be registered subject to removal of office objections.

5] Civil Application is disposed of in above terms.

[V.L.ACHLIYA]
JUDGE