

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

**21 CIVIL APPLICATION NO.14762 OF 2017
IN FAST/31038/2017**

**MANISHA RAJENDRA PATIL AND ORS
VERSUS
AJIMODDIN KAYAMODDIN SHAIKH AND ORS**

Mr. Lalitkumar Mahajan h/f Mr. V. B. Patil, Advocate for the applicants

Mr. V. N. Upadhye, Advocate for respondent No. 3.

CORAM : S. M. GAVHANE, J.

DATED : 10.02.2020

PER COURT :-

. Applicants/original claimants whose claim petition bearing MACP No. 422 of 2009 has been dismissed on 05/11/2016 by the Chairman, Motor Accident Claims Tribunal, Jalgaon have filed this application to condone delay of 220 days caused in filing appeal against the dismissal of said application.

2. Learned counsel appearing for the applicants referring to the grounds mentioned in paragraph Nos. 5 to 9 of the application submitted that after dismissal of the claim petition, applicants obtained certified copies of judgment and award and applicant No. 1 widow of the deceased approached to the Advocate in the High Court to file appeal, but delay has been caused as she

could not take effective steps to file appeal within limitation. It is submitted that applicant Nos. 2 to 5 are dependent on applicant No.1 widow of the deceased and they could not take steps to file appeal within limitation. It is submitted that thus, delay caused is not intentional. If the delay is not condoned, applicants will suffer loss. On the contrary, no prejudice would be caused to the respondents, if delay is condoned and at the most matter will be decided on merits. It is submitted that therefore, delay may be condoned by allowing the application.

3. Nobody is present for respondent Nos. 1 and 2.

4. Learned counsel appearing for respondent No. 3 opposed to grant the application, but there is no material to substantiate the objection.

5. The applicants had filed aforesaid claim petition for compensation on account of death of husband of applicant No. 1 in the accident and said petition was dismissed on 05/11/2016. It appears that delay of 220 days has been caused in filing the appeal.

6. Considering the submissions made by the learned counsel appearing for the applicants and the grounds referred to above and particularly mentioned in paragraph Nos. 5 to 9 of the application, I am of the view that applicants have shown sufficient cause to condone the delay and the same is not intentional. If the delay is condoned, no prejudice would be caused to the respondents. On the contrary matter will be decided on merits. Therefore, it is just to condone the delay. Therefore, delay is condoned and application is allowed in terms of prayer clause (B).

7. Appeal be registered. After registering the appeal, it be placed for admission on 16/03/2020.

[S. M. GAVHANE, J.]