

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

**931 CIVIL APPLICATION NO.16049 OF 2016
IN FAST/36581/2016**

**NEW INDIA INSURANCE COMPANY THR ITS
DIV. MANAGER**

VERSUS

MEERA GORAKHNATH NARWADE & ORS.

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Mr. S.S.Dargad h/f Mr. S.G.Chapalgaonkar,
Advocate for applicant.

Ms. Harshta Manglani h/f Mr. A.S.Bajaj,
Advocate for R – 1.

Mr. V.G.Bhalerao h/f Mr. A.S.Shejwal,
Advocate for R – 2.

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CORAM: V.L. ACHLIYA,J.

DATE : 14/01/2020

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ORAL ORDER:

1. The applicant/Insurance Company has moved this application for condonation of 62 days delay in filing appeal for the reasons set out in detail in the application.

2. Heard learned counsel for applicant and respondent No. 1/claimant as well as respondent No. 2/owner.

3. Learned counsel for applicant submits that the applicant has good case to succeed in appeal. On the

day of accident, the vehicle was not insured with the applicant/Insurance Company. The applicant/appellant has examined the witness and established that the cheque issued towards payment of premium was dis-honoured. The insurance policy/cover note issued was cancelled. The intimation to that effect was given to R.T.O. much prior to the accident. The Tribunal has recorded erroneous findings by over-looking the evidence on record. It is submitted that the decisions as referred and relied by the Tribunal have no bearing upon the facts of the case. It is submitted that the delay in filing appeal was not deliberate and intentional but caused for the reason that considerable time was spent in processing the matter for filing appeal.

4. On the other hand, learned counsel for respondents opposed application with the contention that the reasons assigned are not sufficient to condone the delay. It is contended that procedural delay can not be treated as sufficient cause to condone the delay.

5. On due consideration of submissions advanced in the light of unchallenged uncontroverted pleadings in the application seeking condonation of delay and further considering the grounds, the delay deserves

to be condoned. No serious prejudice would be caused to respondents if delay is condoned. The applicant has taken specific defence that at the time of accident, the vehicle in question was not insured. The applicant has examined witnesses in support of its defence. In that view, there is a case to be considered in appeal. If delay is not condoned, there is every likelihood that meritorious matter may be rejected for technical reason. I am, therefore, inclined to condone the delay. Accordingly, the application is allowed in terms of prayer clause 'B'. Delay condoned. Appeal be registered.

6. Civil Application disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

KNP