

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

**CIVIL APPLICATION NO. 15614 OF 2015
IN
FIRST APPEAL [ST] NO. 33536 OF 2015**

HDFC ERGO General Insurance Co. Ltd.
Aurangabad, through the Authorized Signatory/
Manager, Div Office, Adalat Road, Aurangabad.

...Applicant

Versus

Kiran Asaram More & Ors.

...Respondents

.....
Shri. S. B. Darwande, Advocate h/f Shri. S. G. Chapalgaonkar,
Advocate for the applicant
None for respondents No. 1 & 3
Shri. Sk. Ashraf Patel, Advocate h/f Shri. Abhijit P. Avhad, Advocate
for respondent No. 2
.....

CORAM : B. U. DEBADWAR, J.

DATE : 25th January, 2021

PER COURT : -

1. This is an application for condonation of 20 days delay caused in preferring an appeal against the Judgment and Award dated 21.07.2015 passed by Motor Accident Claims Tribunal, Jalna, in Motor Accident Claim Petition No. 193 of 2014, whereby the claim for 'no fault liability' u/s 140 of the Motor Vehicle Act, 1988, allowed with future interest @ 7.5 p.a.

2. Heard Shri. S. B. Darwande, learned Advocate for applicant and Shri. Sk. Ashraf Patel, learned Counsel for respondent No. 2.

3. None appears for respondents No. 1 & 3, though served with notice.

4. It is contended by learned Advocate for the applicant that, impugned order is against the provisions of Section 140 of the Motor Vehicle Act, 1988. The short delay of 20 days was caused for obtaining legal opinion. Soon after receiving the opinion, the appeal came to be drafted and filed. The applicant/appellant has every hope of success in appeal. Delay is neither intentional nor due to negligence but for *bona fide* reasons.

5. Per contra, Shri. Sk. Ashraf Patel, learned Counsel appearing on behalf of respondent No. 2-owner of the offending vehicle, submitted that the applicant/appellant is an Insurance Company, it has huge manpower and infrastructure of its own. Thus, the concerned officials of the applicant-Company could have managed to collect opinion and prefer an appeal within the period of limitation.

The reasons of delay mentioned in paragraph nos. 3 & 4 of the application are not sufficient to condone the same.

6. In the light of the aforesaid submissions made at bar, I have carefully gone through the impugned order and paragraph nos. 3 & 4 of the application wherein reasons for delay have been assigned. In view of the above facts and circumstances of the case and the reasons for the delay averred in paragraph nos. 3 & 4 of the application, I have no hesitation to hold that, the short delay of 20 days is neither intentional nor deliberate or due to negligence of the applicant/Insurance Company. Therefore, it needs to be condoned. Hence, the following order.

ORDER

- [i] The Civil Application is allowed.
- [ii] The delay of 20 days caused in preferring the appeal against the Judgment and Award dated 21.07.2015 passed by Motor Accident Claims Tribunal, Jalna in Motor Accident Claim Petition No. 193 of 2014, is condoned.
- [iii] Appeal be registered.

**[B. U. DEBADWAR]
JUDGE**