

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

903 CIVIL APPLICATION NO.2807 OF 2018
IN FAST/4719/2018

SUNIL SURYAJIRAO KADAM
VERSUS
BABASAHEB MARUTIRAO JADHAV AND ORS

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Advocate for Applicant : Mr. Chavan P.S.
Advocate for Respondents 1,2 : Mr. Wakure Sanjay A
Advocate S S. Tekale h/f S G Chapalgaonkar for R-3.

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CORAM : V.K. JADHAV, J.
Dated: April 22, 2022

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PER COURT :-

1. Heard both sides.
2. This is an application preferred for condonation of delay caused in filing the first appeal against the judgment and order passed by the Member, M.A.C.T. Osmanabad in MACP No.257 of 2013 by the applicant/original respondent no.1 (owner of the vehicle involved in the accident).
3. Learned counsel for the applicant/original respondent no.1 submits that the MACT, Osmanabad has passed an ex-parte award against the applicant. Further, the Tribunal has passed the award against the

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applicant/respondent no.1 and respondent/insurer by directing the respondent/insurer to pay the amount under the award first and recovery it from the respondent no.1 only. Learned counsel submits that the applicant has got knowledge of the impugned judgment and order and thereafter applied for the certified copy of the judgment and award which came to be supplied to him on 3.1.2018.

4. Learned counsel for respondent no.3 insurer submits that there is an inordinate delay caused in filing the appeal and there is no reasonable explanation. The application is liable to be rejected.

5. Learned counsel Mr. Wakure appearing for respondent nos.1 and 2 absent when the matter is called out.

6. It appears that the MACT, Osmanabad by judgment and order dated 13.6.2017 has awarded the compensation to the original claimants of Rs.6,57,000/- on all counts from respondent no.1. However, since there was breach of the conditions of the policy, directed the respondent no.2-insurer to pay the amount and
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recover it from the respondent no.1-owner. It appears that the applicant/original respondent no.1 has no opportunity to contest the claim petition on merits. Further, there is delay of 154 days caused due to late knowledge of the judgment and award passed against respondent no.1. Thus, considering the entire aspect of the case, I am inclined to condone the delay.

7. In view of the same and for the reasons stated in the application, civil application is allowed in terms of prayer clause 'A and B'. Civil application accordingly disposed off.

(V.K. JADHAV, J.)

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