

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

921 CIVIL APPLICATION NO.5559 OF 2017 IN FAST/5766/2017

SACHIN MADHUKAR MALPURE AND ANR
VERSUS
THE NEW INDIA INSURANCE COMPANY LTD THR DIVISIONAL MANAGER,
JALGAON AND ORS

...
Advocate for Applicants : Mr. Bhokarikar Madhav M.
Advocate for R/1 : Mr. Usmanpurkar Aniruddha S.
Advocate for R/2 and 3 : Mr. Ajit Gholap
...

CORAM : Y.G. KHOBRAGADE, J.
DATE : 11th November, 2022

PC.:-

1. Heard advocate Mr. Bhokarikar learned counsel appearing for the applicants, advocate Mr. Ajit Gholap learned counsel appearing for non-applicant nos.2 and 3 and advocate Mr. Usmanpurkar learned counsel appearing for the non-applicant no.1-Insurance Company at length.
2. The applicants have filed present application under Section 5 of the Limitation Act and prayed for condonation of delay of 407 days caused while lodging first appeal challenging the judgment and award dated 13.10.2015 in M.A.C.P No.120/2006 passed by the learned Tribunal, Jalgaon.
3. The learned counsel appearing for the applicants submitted that on 13.10.2015 the learned Tribunal passed the impugned judgment and

award, however, the copy of the said award was made ready for delivery on 17.02.2017. The delay was caused while lodging the present appeal as the applicants were not having source of income to pay the requisite Court fees. The learned counsel appearing for the non-applicants have not seriously opposed the delay.

4. The learned counsel appearing for the non-applicant nos.2 and 3 submitted that vide order dated 21.04.2017 this Court granted conditional stay to the impugned award on the ground that the applicants should deposit the entire amount under the award with accrued interest thereon before this Court within a period of 12 weeks therefrom. However, the applicants have not complied with the said order, therefore, the impugned order was automatically vacated. However, the writ of vacation of said order has not been issued by this Court. Therefore, considering the nature of claim involved in the present matter and in the interest of justice the delay of 407 days caused while lodging first appeal is hereby condoned. The earlier interim order dated 21.04.2017 passed by this Court which has been vacated automatically due to failure of compliance of the order on part of the present applicants. Accordingly, Civil Application No.5559 of 2017 is disposed off. No order as to costs. The Registry is directed to register the first appeal and place it before the Court for further action.