

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

908 CIVIL APPLICATION NO. 7408 OF 2020
IN FAST/19014/2020

HDFC ERGO GENERAL INSURANCE CO. LTD.,
THROUGH ITS BRANCH MANAGER, AURANGABAD
VERSUS
ANIL KARBHARI AVHAD AND OTHERS

...

Advocate for Applicant : Mr. S. G. Chapalgaonkar.

Advocate for Respondent Nos.1 & 2 : Mr. Sartaj H. Pathan.

...

CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 17th February, 2022.

P.C.:

. It is an application for condonation of delay moved by the appellant/applicant.

2 Heard Mr. S. G. Chapalgaonkar, learned counsel for applicant and Mr. Sartaj Pathan, learned counsel for respondent Nos.1 and 2.

3 Respondent No.3 is stated to be not served despite of sufficient attempts. Respondent No.3 happens to be the owner of the vehicle.

4 Mr. Chapalgaonkar, learned counsel for applicant submits that even though respondent No.3 is not served, there is no need to wait for his appearance to decide this application for condonation of delay in view of the defence raised by the insurance company, which may not be contrary to the interest of the owner of the vehicle.

5 I find merit in the submissions of Mr. Chapalgaonkar, the learned counsel for applicant. There is no need to wait for service upon respondent No.3, who is the owner of the vehicle while deciding the application for condonation of delay.

6 Accordingly, heard Mr. Chapalgaonkar, learned counsel for applicant/appellant and Mr. Pathan, learned counsel for respondent Nos.1 and 2 on the point of condonation of delay. The office has shown the delay of 286 days though in the prayer clause the delay of 400 days are mentioned.

7 For the reasons stated in the application for condonation of delay, more particularly paragraphs 3 to 6, the delay needs to be condoned in the interest of justice. Hence, the following order is passed:

ORDER

- I. The application is hereby allowed in terms of prayer clause (B).
- II. The Registry to make scrutiny of the appeal and thereafter, it be registered and numbered as per the procedure.

[SHRIKANT D. KULKARNI, J.]