

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

**CIVIL APPLICATION NO. 6271 OF 2019
IN
FIRST APPEAL STAMP NO. 39603 OF 2018**

Ramrao Eknath Thombare ... Applicant
Versus
The New India Assurance Company Ltd. & anr ... Respondents

....
Mr. Majit S. Shaikh, Advocate for applicant
Mr. A. S. Usmanpurkar, Advocate for respondent No.1

....
CORAM : Y. G. KHOBRADE, J.
DATED : 17th NOVEMBER, 2022

PER COURT :-

. Heard learned counsel for the applicant and the learned counsel for the non-applicant No.1 at length. Though the non-applicant No.2 duly served with notice, failed to appear in the matter.

2. The applicant who is the original claimant in M.A.C.P No.60 of 2015, has filed the present application and prayed for condonation of delay of 96 days caused while lodging appeal against the judgment and award dated 19.06.2018 passed in

M.A.C.P No.60 of 2015 by the learned Member, Motor Accident Claims Tribunal, Sangamner, District Ahmednagar on the ground that due to his financial condition and the time consumed for collecting some documents, the delay caused.

3. The learned counsel for non-applicant No.1 submitted that the grounds set out in the application for condonation of delay, are not *bona-fide* and substantiate, hence, prayed for rejection of the application.

4. It is submitted that the applicant has given reason that due to his financial problem, he could not arrange requisite Court fees, so also there is delay for collecting some important documents to file appeal, which appears to be substantiate and *bona-fide*. It is settled principle of law that the litigant should not be suffered from receiving substantiate justice on technical ground, and as such, the applicant has set out substantiate grounds to condone the delay. Therefore, by exercising the discretionary power contemplated under Section 5 of the Limitation Act, it would be just and proper to condone the delay of 96 days.

5. In view of the above discussions, the civil application is hereby allowed. The delay of 96 days caused in filing appeal, is hereby condoned.

6. Office to register the appeal and place before the Court for further action.

[Y. G. KHOBRADE, J.]

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