

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CAF No.4545/2019 in First Appeal st No.10495/2019

ICICI Lombard Ins. Co. Ltd V Smt. Nanda and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mrs. A.S. Athalye, Advocate for appellant.

Mr. R.S. Nagpure, Advocate for resps. no.1 to 5.

CORAM : ABHAY AHUJA, J.

DATE : 20-10-2022

This is an application seeking condonation of delay of 163 days in preferring an appeal against the judgment dated 03-07-2018 passed by the Motor Accident Claims Tribunal, Yavatmal in MACP No.91/2010. The learned Counsel draws attention of this Court to paragraphs 1 to 5 of the application in support of her contention to condone the delay of 163 days.

The learned Counsel for the respondents has no objection if the delay is condoned.

Having heard the learned Counsel and having perused the application, let the delay of 163 days in preferring the appeal be condoned.

The registry is directed to register the Appeal within a period of two weeks.

Civil Application (F) No.570/2022

This is an application seeking withdrawal of the amount deposited by the Insurance Company in this Court. Learned counsel for the Insurance Company would submit that

appeal is preferred only on two grounds viz; (i) the claimants were steadily gratuitous passengers and (ii) there was breach of policy as the vehicle was being plied on a hire and reward basis. Learned counsel would submit that claimants are in need of money as they have already spent money in the treatment of their injuries.

Having heard the learned counsel and having perused the application as well as the impugned decision, this Court is of the view that some amount can be allowed to be withdrawn till the final disposal of this appeal and that the appeal also be heard finally on the fixed date. In this view of the matter, the following order is passed :-

ORDER

- (i) Let 25% of the amount deposited by the Insurance Company in this Court be withdrawn on the basis of usual undertaking in addition to solvent surety to the satisfaction of the Registrar (J) of this Court.
- (ii) List the matter for final disposal on 15-12-2022 along with First Appeal No.250/2021.

In the meanwhile, let the record and proceedings be called for.

(Abhay Ahuja, J.)