

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3400 OF 2021
IN
FIRST APPEAL (ST) NO. 16877 OF 2021

Divakar Achyut Sarpotdar

...Applicant/
Appellants

Versus

Nandini Nandkumar Postandel & Ors.

...Respondents

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KAMBLE

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Mr.Aniket Mokashi i/b Mr.Amit Karkhanis, for the
Applicants/Appellants.
Mr.T.J. Mendon, for Respondent Nos.1 to 3.

CORAM : S.G. DIGE, J.

DATE : 30 JANUARY 2023

P.C:-

1. Heard learned counsel for the Applicant and the learned
counsel for the Respondent No.1 to 3-Original Claimant.

2. The learned counsel for the Applicant submit that the
Applicant is the owner of offending vehicle. The Tribunal has directed
to pay the compensation jointly and severally. The offending vehicle
was insured with Respondent No.4. Though the vehicle was insured
with Respondent No.4, liability is fixed by the Tribunal on the
Applicant which is illegal and improper. The judgment and order of
the Tribunal is impugned before this Court by way of Appeal, due to
family problems and financial condition the Applicant could not

preferred the Appeal within stipulated period and there is delay to file the Appeal, hence, requested to condone the delay.

3. The learned counsel for the Respondent strongly objected to condone the delay on the ground that there is more than 4 years delay for filing the Appeal no sufficient reasons are given to condone the delay. Hence, requested to dismiss the Application.

4. I have heard both the learned counsel. The Applicant is owner of offending vehicle he has challenged the order of Tribunal on the ground that though the offending vehicle was insured the liability is fixed on him. The Insurance Company has also preferred the Appeal, hence it is necessary to condone the delay. Heavy cost would meet the ends of the justice and I pass following order.

ORDER

- (i) The Application is allowed.
- (ii) The delay of 4 years and 66 days is condoned, subject to payment of cost of Rs.25,000/- to the Respondent No.1 within two weeks.
- (iii) The Appeal be registered.

(S.G. DIGE, J.)