

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

**CIVIL APPLICATION NO.1597 OF 2021
IN FIRST APPEAL St. NO.9598 OF 2021**

Tukaram s/o Vyankat Gunjal ..vs.. Eknath s/o Sampat Kedar and anr.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri G.R. Kothari, Advocate for the applicant/appellant.
Shri Tariq, Advocate h/f Shri P.B. Patil, Advocate for respondent no.1.
Mrs. M. Naik, Advocate for respondent no.3.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- FEBRUARY 07, 2023.

Heard.

2. By preferring this application, the applicant/appellant-original claimant is seeking condonation of delay of 423 days caused in filing the appeal against the judgment and award passed by the Motor Accident Claims Tribunal, Buldhana.

3. As per the contention of the appellant the award was passed by the Tribunal on 17/03/2020. Immediately after the impugned judgment, the appellant applied for the certified copies however, due to the COVID-19 situation lockdown was declared, and therefore, the appellant could not file the appeal within time.

4. It is further contended that the applicant is the only bread earner of the family. The applicant lost his 18 years old son in the accident and also lost his whole life savings for getting treatment for his amputated leg and

therefore, he was facing the financial difficulties which is also one of the reason for non-filing the appeal, and therefore, delay of 423 days is caused.

5. It is submitted by the learned Counsel for the appellant that delay is not intentional one. There is just and reasonable cause for condonation of delay and hence delay be condoned.

6. Said application is strongly opposed by the learned Counsel for the Insurance Company on the ground that the delay is intentional one and no sufficient and reasonable cause is mentioned in the application for condoning the delay hence application deserves to be rejected.

7. Heard both the sides and perused the application.

8. It is not disputed that from March, 2020 the lockdown was declared in entire Country and it was continued more than a year. It is also apparent that the appellant has lost his son in the accident and he had also sustained the injuries as his leg was amputated. Thus, the reason mentioned in the application that due to paucity of the fund he could not file the appeal, the delay appears to be reasonable one.

9. In the background of the above circumstances and the principles laid down by the Hon'ble Apex Court that while considering the delay condonation application, liberal, pragmatic approach is appreciated and not the

pedantic approach.

10. In view of that, the application is allowed.
The delay is condoned.

11. The applications stands disposed of.

FIRST APPEAL ST. N. 9598 OF 2021

Appeal be registered.

2. Call for the Record and Proceedings.

3. Learned Counsel for the respondent no. 3 submitted that the matter can be settled amicably, and therefore, requested to place the matter in the Lok Adalat.

4. Considering the same, the appeal be placed before the Lok-Adalat scheduled on 11/02/2023.

5. The parties to remain present before the Lok Adalat. Stand over to eight weeks.

(URMILA JOSHI-PHALKE, J.)

**Divya*