

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

**CIVIL APPLICATION NO.168 OF 2023 IN
CROSS OBJECTION (XOB) NO. 14272 of 2021 IN
FIRST APPEAL NO.187 OF 2020**

(National Insurance Co. Ltd. ..vs.. Smt. Rekha Vinod Jadhav and ors.)

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

Court's or Judge's Order

Shri B.P. Bhatt, Advocate for the appellant.
Shri V.R. Thote, Advocate for the respondent Nos. 1 to 6.

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

Heard.

2. By this application, the cross-objectors—original claimants are seeking condonation of delay which is caused in filing the cross-objection.

3. As per the contention of the original claimants, the appellant – Insurance company had filed this appeal challenging the award passed by the Motor Accident Claims Tribunal, Darwaha, District Yavatmal. The applicants/cross-objectors are the original claimants. The cross-objector No.1 has lost her husband and respondent Nos.2 to 4 have lost their father in the accident. Due to the death of the deceased – Vinod Jadhav, cross-objectors lost their bread earner in the accident. Thereafter there was COVID-19 pandemic and they were unable to arrange for the deficit court fee, and therefore, they could not file the cross-objection within time.

4. It is submitted by the learned Counsel for the cross-objectors that the delay is not intentional one. There

is just and reasonable reason for condonation of delay and hence delay be condoned.

5. 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 condonation of delay, hence application deserves to be rejected.

6. Heard both the sides and perused the application. The only ground raised by the cross-objectors is that as they lost their bread earner, they were unable to arrange for the Court fee, which is to be deposited along with the cross-objection. It is not disputed that the deceased Vinod who is the husband of the applicant No.1 died in the said accident. It is also not disputed that due to the death of the deceased Vinod, the cross-objectors have lost their earning source and they were fully dependent on the compensation amount, which is awarded by the Tribunal on 14/08/2018. The amount of compensation was deposited on 31/01/2020. Thus, it is apparent that after receipt of the said compensation amount this cross-objection came to be filed.

7. 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 and pragmatic approach is appreciated and not the pedantic approach.

8. It is also well settled that the parties to be permitted to litigate their cause on merits. In view of that

the application deserves to be allowed. Hence I proceed to pass the following order :

- (i) Civil application is allowed.
- (ii) Delay of 8 days is condoned.
- (iii) Cross-objection is taken on record.

FIRST APPEAL NO.187 OF 2020

The appellant to file private paper book within eight weeks.

2. Stand over to eight weeks.

(URMILA JOSHI-PHALKE, J.)

**Divya*