



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

**CIVIL APPLICATION NO. 11527 OF 2018
IN FAST/23603/2018**

**PADMA ASHOK KHALEKAR AND ANR
VERSUS
RANGNATH SAKHARAM SHINDE AND ANR**

Mr. S. R. Nikam, Advocate h/f Mr. Y. V. Kakade, Advocate for the applicants

Mr. Anand Dale, Advocate h/f Mr. S. S. Rathi, Advocate for respondent No.2.

CORAM : R. M. JOSHI, J.

DATE : 8th JANUARY, 2024

P.C. :-

1. This application is for condonation of delay of 398 days in preferring appeal under Section 173 of Motor Vehicles Act against the judgment and award dated 27th March, 2017 passed in Motor Accident Claim Petition No. 616 of 2013.

2. The appellants are the original claimants. According to them owing to the financial difficulties they could not make arrangement for the payment of stamp duty so also for want of knowledge of the proceeding, the appeal could not be filed in time.

3. Learned counsel for the respondents opposed the application.

4. Perusal of the application indicates that it is not a deliberate or

intentional act on the part of the appellants in not preferring the appeal in time. In any event appellants would not have gained any advantage by not filing appeal within period of limitation. Since no malafide is attributed to the appellants, present application deserves to be allowed. Application is allowed in terms of prayer clause B subject to condition that if appellants succeed in appeal, they would not be entitled for any interest for above period.

(R. M. JOSHI, J.)

ssp