



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

**961 CIVIL APPLICATION NO. 13959 OF 2010
IN
FAST/28098/2010**

**SUKSHALA SUBRAO SAVANT AND ORS
VERSUS
NAGNATH HANUMANT YADAV AND ORS**

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Advocate for Applicant : Mr. R. K. Kasat h/f. Mr. Thombre S. S.

Advocate for Respondent No.2 :

Mr. M. D. Shinde h/f. Mr. M. K. Goyanka

Advocate for Respondent No.2 :

Mr. A. A. Puranik h/f. Mr. A. S. Deshpande

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CORAM : ARUN R. PEDNEKER, J.

DATE : 04th JANUARY, 2024

PER COURT:

1. Heard.
2. The present civil application is filed for condonation of delay of 48 days in filing the first appeal.
3. The learned counsel for the applicants submits that the applicants are poor persons and the bread earner of the family has expired in the accident and it took some time to make the necessary arrangements for appointment of Advocate and payment of court fees.

4. Per contra, the learned counsel appearing for the insurance company submits that the appeal is filed in the year 2010 and the application could not be taken up for consideration on account of deficiency on the part of the appellants and, as such, the learned counsel appearing for the insurance company submits that the delay could be condoned only after waiver of interest in the interregnum period between 2010 till date.

5. However, perusal of the record indicates that the notice was issued on 21.07.2011. It is not disputed by the insurance company that the notice was served on the insurance company in the year 2011. Respondent No.1, who is a driver / owner of the accident vehicle could not be served for a long period of time. Since, respondent no.1 is not served, the matter is listed on various dates. However, it appears that the matter is not listed somewhere from the year 2013 to 2023, as such, there is delay in moving the matter.

6. However, since none of the parties have moved for the listing of the matter, the blame cannot be solely put on the shoulders of the appellants. It was also duty of the Registry to list the matter in due course.

7. In view of the same, the delay of 48 days in filing the first appeal is condoned.

8. The civil application for condonation of delay stands disposed of.

9. The First Appeal is **admitted**. On admission, the learned counsel waives notice for the respective respondents. Call R & P. Office objections, if any, to be removed within a period of four (04) weeks from today.

[ARUN R. PEDNEKER, J.]

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