

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1879 OF 2016
[FOR DELAY CONDONATION]
WITH
INTERIM APPLICATION NO.7122 OF 2024
[FOR DELAY CONDONATION]
IN
FIRST APPEAL (ST) NO.32122 OF 2015

Kaitan Fransis Fernandis (Deceased)
Through Legal Heirs:-
Marshal Kaitan Fernandis and Ors. ...Applicants/Appellants

vs.

Bajaj Aliens General Insurance
Company Limited and Ors. ...Respondents

Mr.Dinesh Sawant h/f	Advocate for Applicants/Appellants.
Mr.Sanskar Marathe:-	
No one is present:-	On behalf of the Respondents.

CORAM : S. M. MODAK, J.

DATE : 22nd AUGUST 2024

P. C. :-

INTERIM APPLICATION NO.7122 OF 2024

1. Heard learned Advocate for the Applicants who are Legal

Representatives¹ of the deceased – Appellant No.1 – Kaitan Fernandis. He is the father of the main deceased. His death certificate is annexed. Kaitan expired on 30th October 2016.

2. There is a delay of more than three (3) years. For the reasons stated in the Application, **it is allowed** in terms of prayer clauses (a), (b) and (c). Let, amendment be carried out forthwith.

3. **Interim Application stands disposed of accordingly.**

CIVIL APPLICATION NO.1879 OF 2016

4. This is the Claimants Appeal for enhancement. There was a delay of 48 days in preferring the Appeal. The Respondent No.1 is the Insurance Company of the offending vehicle. Whereas, Respondent No.2 is the Insurance Company of the vehicle driven by the main deceased. They are also served. The Respondent Nos.3 and 4 are the owner and driver of the offending vehicle. They could not be served. Already, learned Registrar (Judicial-II) has passed a conditional order of dismissal against them on 14th June 2024. The Respondent No.5 is the owner of the vehicle driven by the deceased. He is already served. No one has appeared.

¹ “LRs”

5. For the reasons stated in the Application, delay is condoned.

6. In view of that, **Civil Application stands disposed of.**

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7. Issue fresh notice against all the Respondents returnable on **3rd September 2024.**

8. Learned Advocate is at liberty to serve those learned Advocates who have filed Vakalatnama for the concerned Respondents.

9. **Call Record and Proceeding.**

10. Paper-book be filed within a period of six (6) weeks.

[S. M. MODAK, J.]