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

**914 CIVIL APPLICATION NO. 6381 OF 2025
IN FAST/10128/2013**

GANPATI NAGORAO SURNAR

....Applicant

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....Respondents

Mr. Tushar Nagarkar, Advocate h/f Mr. K. M. Nagarkar, Advocate
for the applicant

Mr. V. C. Solshe, Advocate for the respondent NO. 3

CORAM : KISHORE C. SANT, J.

DATE : 01st AUGUST, 2025

P. C.

1. Heard the learned advocate for the applicant and
respondent.

2. This application is for condonation of delay of 368
days caused in filing the first appeal for enhancement.

3. The learned advocate for the respondent submits
that since 2012 till now no efforts are taken. Therefore, the

applicant should not be given benefit of the interest for the above said period, if the amount is enhanced.

4. The learned advocate for the applicant relied on the judgment in the case of T. C. John alias Yohannan (Deceased) through LRS Vs V. J. Antony and others¹. Para 10 of the said judgment reads as under:

“10. The appellants- claimants, for the period between 22-06-2016 to 13-07-2023, have been denied interest on the ground that there was delay on the part of the counsel for the appellants-claimants in not supplying the copy of the paper book to the counsel for the insurance company. Once the matter was before the court, the appellants claimants should not be deprived of the interest for the period between 22-06-2016 to 13-07-2023. It cannot be said to be the fault on the part of the appellants-claimants, comparable to a fault in filing the appeal beyond the period of limitation. In the case in hand, the appeal was barred by 708 days. The High court while condoning the same, specifically directed that the appellant-claimants will not be entitled to any interest for the aforesaid period, in case the amount of compensation is enhanced. The order is quite reasonable. The aforesaid delay in filing the appeal was attributable to the appellants-claimants, hence, they will not be entitled to the interest for the period of 708 days.”

5. The Hon’ble Apex Court held that for non-filing of the application within time, the appellant can held responsible.

However, merely because the application is pending in the court and there is delay in deciding the appeal, that shall not deprive the appellant of the interest.

6. In the present case, it is rightly pointed out by the learned advocate for the respondent that initially the appeal was filed alongwith application to prosecute the appeal as indigent person. Said application was disposed on 08-09-2017 with a statement that the appellant would deposit the amount of court fees within four weeks. However, it is only on 17-06-2025, time to deposit the court fees was extended by two weeks. This not depositing the amount of court fees from 08-09-2017 till 17-06-2025 certainly attributable to the appellant.

7. Considering above, following order:

ORDER

a] The application stands allowed by condoning the delay.

b] The applicant shall not be entitled to receive any interest on the delayed period, if the amount is

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enhanced.

e] Office to register the appeal.

FIRST APPEAL

1. Heard.

2. Admit.

[KISHORE C. SANT, J.]

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