



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

92 CIVIL APPLICATION NO. 7254 OF 2024 IN FAST/18018/2024
(Delay)
WITH

CIVIL APPLICATION NO. 7255 OF 2024 IN FAST/18018/2024
(stay)

The United India Insurance Co Ltd Through Its Branch
Manager And Ors

versus

Santosh Vishnu Kadam And Ors

...

Mr. Anand Dale h/f S. S. Rathi advocate for applicant
Mr. A.S. Jagtap h/f A N. Nagargoje advocate for respondents.

...

AND

CIVIL APPLICATION NO. 1468 OF 2025 IN FAST/18018/2024
(WTTDRAWAL)

Santosh Vishnu Kadam And Ors

VERSUS

The United India Insurance Co Ltd Through Its Branch
Manager And Ors

...

Advocate for Applicant : Mr. A.S. Jagtap h/f A N. Nagargoje
Advocate for Respondent 1 : Mr. Anand Dale h/f S. S. Rathi

...

CORAM : S. G. CHAPALGAONKAR, J.

Dated : March 17, 2025

ORDER:-

CA for Delay :-

1. Heard learned counsel appearing for the applicant.
2. The applicant seeks to condone the delay of 1062 days caused in filing the appeal. Perused the reasons as stated in

the application. Delay is occasioned on account of administrative exigencies. Hence, sufficient cause is made out to condone the delay. In the result, application is allowed. Delay of 1062 days caused in filing the appeal is condoned. CA stands disposed of. Appeal be registered.

CA for Stay :-

3. Heard learned counsel appearing for the applicant. He submits that entire amount as per the award passed by the Tribunal is deposited with Registry of this Court. His statement is supported by office endorsement.

4. In that view of the matter, application is allowed in terms of prayer clause 'B' and disposed of.

CA Withdrawal of amount :-

5. Heard learned advocates appearing for the respective parties.

6. The applicant seeks permission to withdraw the amount deposited by Appellant/insurance company in terms of the award passed by the Tribunal. Applicants/original claimants are dependents of deceased Vishnu Kadam, who died in motor vehicular accident dated 8.8.2017, they instituted MACP no.4 of 2018 before the Tribunal seeking compensation under section 166 of the Motor Vehicles Act. Owner and driver of the offending vehicle admitted involvement of the vehicle, however, insurer took defence of non-involvement on the ground that FIR was lodged against unknown vehicle and

involvement of the insured vehicle is brought on record through supplementary statement after 7 days of the accident. Claimants in their endeavor to prove involvement of the insured vehicle, relied upon evidence of CW 2 Sarjerao. who testified that he had witnessed the accident involving insured vehicle. The respondent insurer failed to bring any material that would impeach testimony of CW-2. The Tribunal, therefore accepted case of the claimants and passed an award for Rs.7,80,960/- in favour of the claimants. In that view of the matter, prima facie, claimants are certainly entitled for partial withdrawal of the amount deposited by the appellant. In the result, application is **allowed**. The claimants are permitted to withdraw an amount of Rs.5,50,000/- on furnishing an undertaking to the satisfaction of the Registrar (Judicial) of this Court that, in case, adverse order is passed in appeal, they would re-deposit the amount withdrawn.

7. Civil application stands disposed of.

(S. G. CHAPALGAONKAR, J.)

...

aaa-