



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

**CIVIL APPLICATION NO. 7145 OF 2025
IN FAST/7026/2025**

WITH

**CIVIL APPLICATION NO. 2837 OF 2025
IN FAST/7026/2025**

WITH

**CIVIL APPLICATION NO. 2836 OF 2025
IN FAST/7026/2025**

The Divisional Manager The New India Assurance Co Ltd

VERSUS

Govindrao Nagorao Goukonde And Ors

...

Mr. A. S. Usmanpurkar, Advocate for Applicant

Mr. S. S. Panale, Advocate for Respondent nos.1 to 4

.....

CORAM : AJIT B. KADETHANKAR.

DATED : 08TH SEPTEMBER, 2025

PER COURT :-

CIVIL APPLICATION NO. 2836 OF 2025

. Heard.

2. Mr. A. S. Usmanpurkar, learned Advocate appearing for the applicants submits that there is delay of 98 days in filing First Appeal. He further states that said delay is occurred due to administrative exigency and neither deliberate nor willful one. Mr. Usmanpurkar further submits that valuable rights of the insurance company, being a trustee of a public money are

involved in the main matter and that the appeal consists of strong grounds to interfere into the findings rendered by the learned Tribunal.

3. Mr. Panale, learned Advocate appearing for respondent nos.1 to 4, per contra vehemently opposes the application filed by the applicant for delay condonation. He submits that the grounds for delay condonation is mentioned in the Civil Application are incorrect and it is unbelievable that an Insurance Company could face such administrative exigency that may result into delay of 98 days.

4. Having considered above, I am of the opinion that in the facts and circumstances, the delay deserves to be condoned. Hence, for the reasons stated in the Civil Application, the delay caused in filing First Appeal stands condoned. Registry is directed to register the First Appeal, subject to removal of the office objections, if any.

5. Civil Application stands disposed of.

CIVIL APPLICATION NO. 2837 OF 2025

. Pursuant to the last order passed by this Court staying the execution and operation of the impugned judgment and award, the applicants/appellants has deposited the entire

payable award amount in this Court.

2. In view of this, the stay granted earlier is made absolute in terms of prayer clause 'B'.

3. Civil Application stands disposed of.

CIVIL APPLICATION NO. 7145 OF 2025

. This Civil Application is filed by the original claimants for withdrawal of the award amount i.e. deposited by the appellant/Insurance Company in this Court pursuant to the stay granted to the execution and operation of the impugned judgment and award.

2. To oppose the application, Mr. A. S. Usmanpurkar, learned Advocate representing the appellant/Insurance Company submits that the appeal is filed on the ground that despite the driver of insured vehicle was not having valid and effective licence while driving the insured vehicle, the learned Tribunal has not considered the legal position and contentions raised by the Insurance Company. Insurance Company has made the award recoverable jointly and severally from the insurer and insured. His further contention is that this case was otherwise fit for 'pay and recover' directions. With this, Mr. A. S. Usmanpurkar vehemently opposes the application

for withdrawal and requests to reject the application.

3. Heard both the parties. As on today, the award stands in favour of the claimants. The claimants, who lost their breadwinner, have filed this claim petition and after going through the evidence on record, the learned Tribunal has passed the impugned judgment and award. It would be in the interest of nobody to keep the amount so deposited by the Insurance Company idle in the bank. In any event, the wholesome object of the appeal is to atleast secure 'pay and recover' directions against the insured. Hence, I have no hesitation to pass the following order:

- a. Civil Application is partly allowed.
- b. Claimants/applicants are permitted to withdraw the amount of 80 percent of the total deposit made by the appellant/Insurance Company, subject to filing usual undertaking.
- c. Civil Application stands disposed of in above terms.

FIRST APPEAL ST. NO.7026 OF 2025

. After registration of the Appeal, issue notice to the respondents with intimation that the appeal shall be heard finally at the stage of admission. Mr. Sachin Panale waives

service of notice for respondent Nos.1 to 4. For rest of the respondents, appellants may serve them by all permissible modes of private service and file affidavit of service to that effect, if they so advised.

(AJIT B. KADETHANKAR, J.)

Rushikesh/2025