



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 CIVIL APPLICATION NO. 10234 OF 2025 (Withdrawal)
IN FAST/1585/2014

SWAYAM DINKAR KULKARNI.

VERSUS

THE ORIENTAL INSURANCE CO. LTD. BRANCH OFFICE NANDED AND ANR.

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Mr. H. I. Pathan, Advocate for Applicant

Mr. A. A. Puranik h/f. Mr. A. S. Deshpande, Advocate for Respondent No.1

WITH

CIVIL APPLICATION NO. 1028 OF 2014
IN FAST/1585/2014

THE ORIENTAL INSURANCE CO. LTD.

VERSUS

SHAILAJA DINKAR KULKARNI AND OTHERS

WITH

CIVIL APPLICATION NO. 1029 OF 2014
IN FAST/1585/2014

THE ORIENTAL INSURANCE CO. LTD.

VERSUS

SHAILAJA DINKAR KULKARNI AND OTHERS

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CORAM : AJIT B. KADETHANKAR, J.

DATE : 10.10.2025

PER COURT :-

CIVIL APPLICATION NO. 10234 OF 2025 (Withdrawal)

1. Feeling aggrieved by the judgment and award dated 01.03.2013

passed by the learned Motor Accident Claims Tribunal, Nanded, in M.A.C.P No.112 of 2007, the Insurance Company has filed the present First Appeal.

2. The Insurance Company has deposited the entire payable award amount together with accrued interest in this Court pursuant to the stay granted by this Court.

3. Mr. Pathan, learned counsel for the applicant, submits that while other claimants have withdrawn a portion of the deposited amount, the share pertaining to original claimant no.5, namely Swayam s/o Dinkar Kulkarni, remains unwithdrawn on account of a rider imposed by the Tribunal, directing that an amount of Rs.1,00,000/- be fixed in the name of Swayam until he attains majority. Mr. Pathan further submits that this Court, vide order dated 17th April 2015, directed the deposit of Rs.2,80,000/- in fixed deposit in Swayam's name until he attained the age of majority. It is submitted that this amount includes the earlier sum of Rs.1,00,000/- directed by the Tribunal. Mr. Pathan submits that original claimant no.5, Swayam, has now attained the age of majority, and his school record evidencing the same is attached with the application. He further submits that some amount is now required for educational purposes.

4. Mr. A. A. Puranik, holding for Mr. A. S. Deshpande, learned counsel for the Insurance Company, submits that instead of allowing

withdrawal of the entire deposited amount, a portion may be allowed to be withdrawn by original claimant no.5, in order to protect the interests of the Insurance Company.

5. In view of this, I pass the following order :-

ORDER

- a. Civil Application is partly allowed.
- b. The original claimant no.5-Swayam is permitted to withdraw an amount of Rs.2,00,000/- with accrued interest thereon out of the amount pending in this Court.
- c. Civil Application stands disposed of.

CIVIL APPLICATION NO. 1028 OF 2014 IN FAST/1585/2014 (Delay)

1. Feeling aggrieved by the judgment and award dated 01.03.2013 passed by the learned Motor Accident Claims Tribunal, Nanded, in M.A.C.P No.112 of 2007, the Insurance Company has filed the present First Appeal.

2. Mr. A. A. Puranik, holding for Mr. A. S. Deshpande, learned counsel for the applicant, submits that a delay of 193 days has occurred in filing the First Appeal, and hence, the present Civil Application is filed, demonstrating justifiable reasons for condoning the delay. He submits that after receiving certified copies of the impugned judgment and award, a proposal was made to the higher authorities seeking approval for filing the appeal, as per company policy. The matter was then placed before the

committee responsible for deciding such matters. Upon the committee's decision to file the appeal, the papers were forwarded for filing, and subsequently, the matter was handed over to the counsel, who raised a requisition for the statutory amount and court fees. It is submitted that immediately upon receipt of the statutory amount and court fees, the appeal was filed. He further submits that the applicant is a subsidiary of a General Insurance Company and a public body. He further submits that he would not advocate an ordinary reason for delays, he points out that procedural requirements, including multiple levels of approval and sanction of funds, resulted in time being consumed. He also submits that the Insurance Company has deposited the entire awarded amount together with interest in this Court pursuant to an earlier order. A substantial portion of the amount has already been withdrawn by the claimants. He argues that no prejudice has been caused to the claimants due to the delay in filing the appeal. Furthermore, the issue of the Insurance Company's liability to indemnify the insured is under challenge in the appeal and needs adjudication on merits.

3. Mr. Pathan, learned counsel for the respondents, vehemently opposes the application, contending that administrative exigencies can never constitute a justifiable ground for delay. He places reliance on a judgment in the case of *State of Maharashtra vs. Vithu reported in 2008 (6) Mh.L.J.*,

delivered by this Court, wherein it was held that delays due to administrative reasons need not be condoned. He, therefore, prays for rejection of the application.

4. Having heard the parties, I find that the delay is properly explained by the learned counsel for the applicant/Insurance Company. The delay is not inordinate, and the applicant has meticulously demonstrated the reasons behind the same. It also cannot be overlooked that the entire award amount, along with accrued interest, has already been deposited in this Court, and substantial withdrawals have been made by the claimants. Thus, the interest of the claimants stands protected. There could be no dispute to disagree with the preposition laid down in the case cited by the learned counsel for the claimants. The case necessarily relates to land acquisition proceedings wherein this Court has passed the said order. Mr. Puranik makes a reference to recent pronouncement by the Hon'ble Supreme Court in the case of **Sheo Raj Singh (Deceased through LRs.) & Ors. V/s Union of India and ors. [Civil Appeal No.5867 of 2015 dtd.09-10-2023]** wherein dealing with the delay condonation application in land acquisition proceedings, the Hon'ble Supreme Court has taken into account the administrative exigencies to condone the delay. In my view, in the present case, the applicant has made out a case for condonation of delay not only on the point of administrative

exigencies but also demonstrating the issue raised in the First Appeal for which hearing of the parties is necessary.

5. In view of this, I pass the following order :

ORDER

- a. Civil Application is allowed.
- b. Delay of 193 days caused in filing the First Appeal is hereby condoned.
- c. Registry to register the First Appeal, subject to removal of office objections, if any.
- d. Civil Application stands disposed of.

FIRST APPEAL STAMP NO.1585 OF 2014

1. Issue notice to the respondents, returnable on 21.11.2025.
2. Mr. Pathan, learned counsel waives service of notice for respondent nos.1 to 5.
3. The matter be listed after service of notice is complete. In the meantime, applicant/appellant shall take recourse to the provisions enumerated in Chapter II of the Bombay High Court Appellate Side Rules, corresponding to the stage and requirement of matter.

[AJIT B. KADETHANKAR, J.]