
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.8710 OF 2024
IN
FIRST APPEAL NO.379 OF 2021**

Bajaj Allianz General Insurance Company Ltd .. Applicant/
Org.Insurer

Versus

Manasi Girishchandra Joshi & Anr. .. Respondents

Mr.Devendranath S. Joshi, Advocates for the Applicant.

**CORAM : B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE : JUNE 27, 2025**

P. C.

1. The above Interim Application is filed to restore the above Appeal against Respondent No.2 and recalling the order dated 15th September 2023 passed by the learned Registrar. By this order, the above Appeal was dismissed against Respondent No.2 for not taking steps for service of the above Appeal on Respondent No.2. There is also a prayer for condonation of delay of 159 days in filing the above Interim

Application. The reason for not being able to serve Respondent No.2 has been set out in paragraph 4 of the Application which reads thus:-

4. *It is submitted that the First Appeal was listed before the Honourable Registrar on 15/09/2023 when a conditional order to take steps against the unserved Respondent No.2 was passed since he could not be served on the given address. Inadvertently, the steps remained to be taken within a prescribed time of 2 weeks & resultantly, the First Appeal stood dismissed against the Respondent No.2 on 29/09/2023. It is submitted that when the Appellant inquired with the Advocate in the 1st week of March 2024 regarding the status of the First Appeal, the said fact was revealed while checking the status. It is submitted that the notices issued to the Respondent No.2 after admission were returned unserved with Bailiff Remark "Not Found". It is further submitted that the address of the Respondent No.2 mentioned in the First Appeal is the same addresses given by the Claimant before the MACT Mumbai. It is further submitted that the Respondent No.2 even failed to appear before the learned Tribunal to contest the Claim but neither the original Claimant nor the Insured has not informed the changed address either to the Tribunal or to the Appellant and thereby want to avoid the service of the notice of the present First Appeal by not providing correct address. In spite of due search made, the current address of the Respondent No.2 could not be found. In view of the said facts, the Respondent No.2 is required to be served by publication of notice of the First Appeal for final hearing in daily newspaper widely circulated in the vicinity of Navi Mumbai, Thane District as per the last known address of the Respondent No.2 in the daily Newspapers namely Free Press Journal (English). It is submitted that there is no other mode of service available to the Appellant in the facts and circumstances mentioned hereinabove. It is submitted that the order of dismissal of the First Appeal is required to be recalled in view of the above. It is further submitted that there is some delay in filing the present Application which is not intention & is sufficiently explained.*

2. Considering these facts and circumstances, we hereby condone the delay and set aside the order dated 15th September 2023

passed by the learned Registrar and restore the above Appeal *qua* Respondent No.2 to the file of this Court.

3. Additionally, we permit the Appellant to serve the notice of the present Appeal for admission on Respondent No.2 in newspapers widely circulated in Navi Mumbai, Thane in the Free Press Journal (English) and Navshakti (Marathi). The Notices shall specifically state that the above Appeal is kept for admission on 8th August 2025.

4. The Interim Application is disposed of in the aforesaid terms. However, there shall be no order as to costs.

5. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]