

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

**INTERIM APPLICATION NO. 9236 OF 2024
IN
FIRST APPEAL (ST) NO. 8110 OF 2024
WITH
FIRST APPEAL (ST) NO. 8110 OF 2024**

Smt. Manisha Mangesh Dalvi And Ors. ...Applicants

V/s.

Mr. Deepak V. Parekh And Anr. ...Respondents

Mr. Amol A. Gatne i/by Ms. S. U. Mehta, for the Applicants.

Ms. S. S. Dwivedi, for the Respondent No.2.

CORAM : SHYAM C. CHANDAK, J.

DATED : 23rd APRIL, 2025

P.C. :-

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. Present Application filed by the Original Claimants seeking condonation of 2 years and 92 days delay in filing the aforesaid Appeal.

2) Despite service of notice of the Application, the Respondent No.1 has not filed his appearance. Respondent No.2 has not filed a reply to this Application. However, Ms.Dwivedi, the learned Advocate for the Respondent No.2 has orally opposed the Application.

3) The learned Advocate Mr. Gatne submitted that, the deceased was only earning member in the family. The Applicant No.1 is widow and Applicant Nos.2 to 4 are children of the deceased. The claim was allowed only against Respondent No.1 because the deceased was travelling as passenger in the same vehicle, which was responsible for his accidental

death. But the risk of the deceased was not covered in the policy of insurance of the said vehicle. He submits that, after dismissal of the claim, the Applicants contacted their lawyer and handed over him necessary papers to prepare for the Appeal. But said Advocate misplaced the said papers. He submits that, thereafter the Applicants obtain fresh papers and contacted another Advocate to file the Appeal. As such, the said delay is *bona fide*. The Applicants have not taken any advantage on account of the said delay.

4) Considering the aforesaid submissions and the objects of law of compensation in accident cases, I am inclined to allow the Application. Hence the following Order.

- (a) Application is allowed.
- (b) The condonation of 2 years and 92 days delay in filing the Appeal is condoned.
- (c) Appeal be registered forthwith.

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. Issue notice to the Respondents, returnable on **4th August, 2025**.

- 2) Ms. Dwivedi, the learned Advocate waives notice on behalf of the Respondent No.2.
- 3) The Appellants to provide copy of the Appeal in the Registry, for service of notice on Respondent No.1. In addition to Court's notice, the

Appellants to serve the Respondent No.1 with private notice and file affidavit of service on or before the returnable date. ***Hamdast*** allowed.

(SHYAM C. CHANDAK, J.)