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

**INTERIM APPLICATION NO.10997 OF 2024
WITH
INTERIM APPLICATION NO.10998 OF 2024
IN
FIRST APPEAL STAMP NO. 8655 OF 2024
WITH
FIRST APPEAL STAMP NO. 8655 OF 2024**

The New India Assurance Co. Ltd. ...Applicant/Appellant
vs.
Kailash Sharad Sheth & Ors. ...Respondents

**WITH
INTERIM APPLICATION NO.1948 OF 2025
IN
FIRST APPEAL STAMP NO. 8655 OF 2024**

Kailash Sharad Sheth ...Applicant
vs.
The New India Assurance Co. Ltd. ...Respondents

Mr. Rajesh Kanojia i/b Res Juris for the Applicant in IA
No.10997/2024 and for the Appellant in FAST No.8655/2024.
Mr. Shreyas S. Butala for the Respondent No.1 in FAST No.8655/
2024 and for the Applicant in IA No.1948/2025.

CORAM : SHYAM C. CHANDAK, J.

DATED : 12th MARCH, 2025.

P. C. :

INTERIM APPLICATION NO.10997 OF 2024

. Present Application seeks condonation of 171 days delay
in filing the aforesaid Appeal.

2) Learned Advocate for the Applicant/Appellant submitted
that no statutory defence is available to the Appellant against

Respondent Nos.2 and 3. Said Respondents were proceeded against ex parte before the Tribunal. In view thereof, he prayed that notice to Respondent Nos.2 and 3 be dispensed with.

3) As regards delay, the learned Advocate for the Applicant submitted that it took him time to get an administrative approval and to file the Appeal. The delay is not huge. Learned Advocate for the Respondent No.1 has not seriously disputed the Application.

4) In view thereof and for other reasons stated in the Application, the delay of 171 days is condoned. Appeal be registered.

5) Application is disposed of, accordingly.

FIRST APPEAL STAMP NO. 8655 OF 2024

. Issue notice to the Respondents and in Interim Application No.10998 of 2024, returnable on **16th April 2025**.

2) Learned Advocate Mr.Butala waives service on behalf of the Respondent No.1.

3) Learned Advocate for the Appellant/Applicant to supply spare copies of the Appeal/Application in the Registry within a period of two weeks from today. In addition to the Court's notice the Appellants to serve the Respondent Nos.2 and 3 by private notice and file the affidavit of service on or before the returnable date. ***Hamdast***

allowed.

4) Learned Advocate for the Appellant to provide compilation of documents on the next date.

INTERIM APPLICATION NO.1948 OF 2025

. Heard.

2) Present Application seeks permission to withdraw the compensation amount. The accident occurred in the year 2017 in which the Applicant had sustained serious injuries and it resulted in 75% functional disability, as held by the Tribunal. The learned Advocate stated that the Applicant has incurred Rs.5,00,000/- on medical expenses and he has lost his earning capacity.

3) In view thereof, the Applicant is permitted to withdraw Rs.30,00,000/- out of the compensation amount along with proportionate interest subject to furnishing an undertaking that in case the Appellant succeeds in this Appeal, the Applicant would refund the said amount along with interest as would be directed by this Court. The Tribunal shall invest remaining amount with Nationalized bank giving highest interest from time to time.

4) Application stands disposed of accordingly.

[SHYAM C. CHANDAK, J.]