



43.caf.3101.2024 in fast.8044.2024.odt

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

CIVIL APPLICATION (CAF) NO. 3101 OF 2024

IN

FIRST APPEAL (ST) NO. 8044 OF 2024

(Divisional Manager, New India Assurance Company Ltd. V/s Nanda Sudam Sarode & Ors.)

Office Notes, Office Memoranda of Coram,
Appearances, court's orders or directions and
Registrar's orders

Court's or Judge's orders

Mr. B. P. Bhatt, Advocate for Appellant.
Ms. R. V. Palaspagar, Advocate for Respondent Nos.1
to 3.

CORAM : ROHIT W. JOSHI, J.
DATE : FEBRUARY 05, 2025.

CIVIL APPLICATION (CAF) NO. 3101 OF 2024

. There is a delay of 86 days in filing the Appeal
under Section 173 of the Motor Vehicles Act, 1988.

2. The Appeal is filed by the Insurance Company. The
Respondent Nos.1 to 3/Original Claim Petitioners have not filed
reply questioning the veracity of averments in the Application
for condonation of delay. The delay is properly explained in the
Application.

3. As regards the Respondent No.4, he is owner of the
offending vehicle. Notice issued to the Respondent No. 4 is
awaited. However, Mr. Bhatt makes a statement that grounds
pertaining to quantification of compensation will only be
pressed at the time of final hearing of the Appeal and that no

ground affecting the rights of the Respondent No.4 will be advanced. In view of the above statement, application seeking condonation of delay be decided.

4. For the reasons mentioned in the Application, Civil Application is allowed and delay of 86 days in filing the Appeal is condoned.

5. The Appeal be registered.

FIRST APPEAL (ST) NO. 8044 OF 2024

. Heard. **Admit.** Call R & P.

2. Ms. Palaspagar, learned Counsel, waives service of notice on behalf of the Respondent Nos.1 to 3.

3. Issue notice to the Respondent No.4.

CIVIL APPLICATION (CAF) NO. 356 OF 2025

. The Respondent Nos.1 to 3, who are widow and sons of the deceased, have moved the present Application seeking permission to withdraw the amount deposited by the Appellant with this Court as condition for stay to the execution of the impugned Award.

2. The Application is opposed by the learned Counsel for Appellant. However, upon perusal of the Judgment it appears that the deceased was a businessman, whose annual income is Rs. 2,18,710/- as per the Income Tax return. In the previous year also his income as per Income Tax Return is

Rs.1,96,220/-. The compensation awarded appears to be reasonable.

3. In view of the aforesaid, Respondent Nos.1 to 3 are permitted to withdraw 3/4th amount deposited by the Appellant with this Court along with accrued interest, subject to furnishing usual undertaking.

4. 50% amount be disbursed to the mother i.e. Applicant No.1 – Nanda Sudam Sarode and 50% amount be disbursed in equal proportion to the children i.e. Applicant Nos.2 and 3 namely, Ashish Sudam Sarode and Satish Sudam Sarode.

5. Civil Application stands disposed of accordingly.

(ROHIT W. JOSHI, J.)