

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 14889 OF 2024
IN
FIRST APPEAL (ST) NO. 26189 OF 2024

Kunalsingh Lalsingh Bisen

... Applicant/Appellant
(Orig. Claimant)

Versus

Bansiddh Maynale And Anr.

... Respondents (Orig. Opponents)

Mr. Ashok B. Tajane a/w Kavita P. Shinde for the Applicant/Appellant.
Mr. Aditya Ghadge h/f Mr. Sarthak Diwan for the Respondent No. 2.

CORAM : M. M. SATHAYE, J.

DATE : 6th March, 2026.

P. C. :

1. Heard learned Counsel for the Applicant-Original Claimant and Respondent No. 2-Insurance Company. The Application is by Original Claimants seeking condonation of delay of 7 years 1 month and 18 days (2606 days) in filing the Appeal.
2. According to office note, the Respondent No. 1 is served. Nobody appears for Respondent No. 1 despite service. No reply is filed.
3. By impugned Judgment and order dated 12.07.2017, the claim petition filed by the Applicant is granted only against Respondent No. 1 who is the owner of the offending vehicle and Insurance Company has been exonerated on the ground of breach of policy terms.

4. The Applicant has stated on oath as under.

4.1 That he has suffered grievous injury to his head, chest and all over body in the accident which gave rise to the claim in question. That he was operated on his skull which affected his memory. That the Applicant is still taking treatment and has not been able to work as a normal person both mentally and physically.

4.2 That due to his illness, Applicant's Wife has started residing separately with their son and the Applicant is staying with his parents at Barshi. That the Applicant's Wife has filed Domestic Violence case against the Applicant and his family members.

4.3 That the Applicant's lawyer looking after the matter before Tribunal died during Covid and Applicant has lost his father two years back.

4.4 That Applicant was informed that he will be required spend for Court fees for filing the Appeal. That the Applicant is totally dependent on his family members and it took some time to raise necessary funds for filing the Appeal.

4.5 That the delay is neither deliberate nor intentional.

5. Learned Counsel for the Applicant states on instructions that the Applicant is ready and willing to forgo/not claim the interest for the period of delay, in case Applicant succeeds in the Appeal. The statement is accepted and recorded as an undertaking to the Court.

6. Learned Counsel for the Respondent No. 2-Insurance Company strenuously opposed the Application contending *inter alia* that the delay is inordinate and sufficient cause is not made out. He submitted that, if the delay is condoned, valuable right accrued in favour of Insurance Company shall be jeopardized by opening the matter on merits again. He submitted that the Application be rejected.

7. It is trite law that it is not the extent of delay but the explanation offered is material consideration. Having considered the averments made in the Application which are un-controverted, in my view, the situation (as noted above) leading to delay has been sufficiently explained. The Applicant is claimant who has suffered injury in the accident in which the claim Application is granted only against owner. The Applicant has undertaken not to claim the interest for delay-period; therefore Respondents are duly protected in that regard. Therefore, in my view, sufficient cause is made out.

8. Accordingly, the Application is allowed. Delay is condoned. However, it is clarified that in case the Applicant/Appellant succeeds in the Appeal, he shall not be entitled to claim interest on any amount for the period of delay.

9. All concerned to act on duly authenticated or digitally signed copy of this order.

[M. M. SATHAYE, J.]

Digitally
signed by
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SHUBHAM
ASHOKRAO
Date:
2026.03.07
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