

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 17278 OF 2025

Amitsingh Paramjitsingh Kaisar

..Petitioner

**Versus**

Vitthoba Appa Survase & Anr.

...Respondents

Mr. Amol Gatne i/b Ms. Swati Mehta, for the Petitioner.

Ms. Deepika Prabala a/w Ms. Gargi Mandvikar i/b Res Juris,  
for Respondent No. 2.

CORAM : N. J. JAMADAR, J.

DATE : 23<sup>th</sup> MARCH 2026

**Oral Order:**

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order dated 14<sup>th</sup> July, 2025 whereby an application preferred by the petitioner/claimant in MACP No. 162/2016 to bring the legal representatives of the Opponent No.1 – owner of the offending vehicle, came to be rejected, primarily for the reason that, the petitioner could not satisfactorily account for the delay in filing the application to bring the legal representatives of the Opponent No. 1 on record.
3. I have perused the averments in the application for condonation of delay. In Paragraph No. 3 of the application, the petitioner/applicant has sought to ascribe the reasons for the

delay in filing application to bring the legal representatives on record. It was *inter alia* averred that, the petitioner/applicant having been injured in the accident in question, found it difficult to get the details of the legal representatives of deceased Opponent No. 1. Eventually, on the basis of information obtained from the Sarpanch of Gram Panchayat, Kasegaon Dist. Solapur, the petitioner had preferred the application to seek setting aside of the abatement and to bring the legal representatives of the deceased Opponent No. 1, on record.

4. Having regard to the nature of the proceedings under the Motor Vehicles Act, 1988, where the Tribunal is expected to determine just and fair compensation, strict rules of procedure do not govern the proceedings before the Tribunal. A useful reference can be made to a judgment of the Supreme Court in the case of *Dulcina Fernandes v. Joaquim Xavier Cruz*<sup>1</sup>. The presence of the legal representatives of the deceased Opponent No. 1 is necessary for the just determination of the application for award of compensation.

5. Indeed, there is an element of delay on the part of the petitioner/applicant in seeking the setting aside of the abatement and the impleadment of the legal representatives of

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1 AIR 2014 SC 58

the Opponent No. 1. Yet in the light of the fact that the petitioner/applicant has claimed that on account of the injuries sustained in the accident, he found it difficult to get the details of the legal representatives of the deceased-Opponent No. 1 and, eventually, the information was obtained from the Sarpanch of the concerned Gram Panchayat in the year 2024, the cause of substantive justice would be better advanced if the delay is condoned.

6. Hence, this Court is inclined to allow the petition. However, in the event the claim petition is allowed, while awarding interest, the Tribunal shall have due regard to the fact that there was delay in filing the application to bring the legal representatives of deceased Opponent No. 1 on record and that contributed to the pendency of the claim petition.

7. Hence, the following order:-

**:: O R D E R ::**

- i) The Writ Petition thus stands allowed.
- ii) The impugned order stands quashed and set aside.
- iii) The delay in seeking setting aside of the abatement and bringing the legal representatives

of deceased Opponent No. 1 on record, stands condoned.

iv) The abatement stands set aside.

v) The legal representatives of Opponent No. 1 are permitted to be brought on record. Necessary amendment be carried out within a period of three weeks from the date of uploading of this order.

vi) In the event the Claim Petition is allowed, the Tribunal shall have due regard to the fact that there was delay in filing the application to bring the legal representatives of deceased Opponent No. 1 on record, and that contributed to the pendency of the claim petition.

**[N. J. JAMADAR, J.]**