

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 13918 OF 2012
IN
FIRST APPEAL ST. NO. 26386 OF 2014
WITH
CIVIL APPLICATION NO. 13919 OF 2012**

The Commissioner of Police, Aurangabad .. Applicants
& Anr.

Versus

Asifabegum Sk. Ibrahim & Ors. .. Respondents

Mr. A.M. Phule, AGP for applicants.

Mr. P.S. Agrawal, Advocate for respondent Nos. 1 to 4.

CORAM : A.M. BADAR, J.

DATED : 30.11.2015

P.C. :-

1. This is an application for condonation of delay of 2280 days in filing first appeal challenging judgment and award passed by the learned Member of Motor Accident Claims Tribunal, Hingoli.

2. Heard learned AGP appearing for applicants as well as Mr. Agrawal, learned Counsel appearing for non-applicants. Perused application.

3. Learned AGP appearing for applicant submits that

delay occasioned in filing appeal under section 173 of the Motor Vehicles Act is sufficiently explained in order to show that applicants were prevented by sufficient cause in filing appeal belatedly. He further argued that the deceased had contributed in happening of the accident.

4. As against this, learned Counsel appearing for non-applicants contended that even on merit, there is nothing to demonstrate that impugned judgment and award is illegal or perverse. He submitted that parties were in appearance before the learned Tribunal and applicants were represented by Asstt. Govt. Pleader. In this view of the matter, learned Counsel for non-applicants submits that in proceedings where relief was sought under welfare legislation, it is duty of other side to be vigilant and claimant cannot put to loss, when they have reason to consider that award has become final with passage of time.

5. At the instance of learned Counsel appearing for non-applicants as well as the learned AGP, I have gone through impugned judgment and award. Learned AGP has submitted that there is merit in his contention that deceased had contributed in happening of accident. Though at the stage of considering the matter for condonation of

delay, it is not apposite to go through merit of the matter, at the instance of both parties I have perused the impugned award. Accident in question happened when deceased was working as Sweeper at the premises of bungalow of the Superintendent of Police. A motor vehicle came in reverse direction and hit the deceased. After considering evidence on record, the learned Tribunal had given finding recording rashness and negligence of the driver of the motor vehicle in causing accident.

6. Be that as it may, perusal of application shows that impugned award was passed on 03.04.2006 and certified copy was applied on 02.04.2006. Averment in application goes to show that it was on 05.04.2006 certified copies of judgment and award were supplied to the applicants. As such, applicants were well equipped with all relevant material for filing appeal challenging award passed by the learned Tribunal. However, reason for delay is stated to be delay in granting approval for filing of appeal by the learned Jt. Secretary, Law & Judiciary Department, Aurangabad as well as for getting copies of judgment and award typed. These cannot be construed as sufficient reason warranting condonation of delay in filing appeal challenging award passed by the learned Tribunal in social welfare legislation.

Inordinate delay of 2280 days is not at all sufficiently explained warranting its condonation. Hence, order :-

i. Civil Application for condonation of delay is rejected.

ii. In view of disposal of Civil Application for condonation of delay, connected Civil Application for stay does not survive and same stands disposed of.

[A.M. BADAR, J.]