

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

**CIVIL APPLICATION NO. 2372 OF 2014
IN
FIRST APPEAL (ST.) NO. 11460 OF 2014**

Harun Rashid Babubhai Shaikh & Anr.	... Applicants
V/s.	
Nirmala Baba Katare & Ors.	... Respondents

Mr. Mahindra Deshmukh for the applicant.

Mr. D.S. Joshi for the respondent no.3.

**CORAM : K. K. TATED, J.
DATED : 29/07/2015.**

PC.:

. Heard learned Counsel for the parties.

2 This application is preferred by original opponent nos. 1 and 2 for condonation of 2 years and 75 days delay in filing First Appeal challenging the Award dated 20.01.2012 passed by the Motor Accident Claims Tribunal, Islampur in M.A.C.P No. 47 of 2008.

3 The learned Counsel for the applicant submits that accident which occurred on 23.05.2006, three claims petitions were filed by the respective claimants i.e. Claim Petition No. 45 of 2008, 46 of 2008 and 47 of 2008. He submits that in all these claim Petitions the total sum of Rs.20,90,876/- was awarded by the Tribunal by way of compensation. He submits that because of financial crisis, the applicant decided not to

challenge the order passed by the Tribunal. He submits that thereafter the respondents claimants filed First Appeal no. 1124 of 2012 for additional compensation. He submits that in that First Appeal by order dated 11.10.2012, the record and proceedings were called by this Court. He submits that thereafter, the applicant decided to file the present First Appeal in this Court. Hence, there is a delay in preferring the First Appeal.

4 The learned Counsel for the applicant submits that the applicant no.1 is Senior Citizen, who is suffering from various elements of disease and blood pressure. He submits that the applicant no.2 is driver by profession and working as driver in local jeep for livelihood. He submits that for filing the First Appeal in this court, they required to deposit court fees and Rs.25000/- each in First Appeal as per Section 173 of M.V. Act and also to bare Advocate's expenses. Hence, there is a delay in preferring the First Appeal.

5 In support of this contention, the learned Counsel for the applicant relies on paragraph 4 and 5 of the Civil Application. He submits that they have good chance of success in the present proceeding. He submits that in the interest of justice, this Hon'ble Court be pleased to condone the delay in preferring the present First Appeal.

6 I heard learned Counsel for the applicant at length. In the present proceeding, though the Tribunal passed Award on 20.01.2012, the applicant filed application for certified copy of Judgment and award on 04.04.2014. Same were ready on 13.06.2014 and thereafter,

the applicant filed present First Appeal in this Court on 04.07.2014. There is no explanation in the Civil Application, why the applicant took more than two years in applying the certified copy of impugned Judgment and award passed by the Trial Court. The reasons given by the applicant in Civil Application of financial crisis cannot be ground for condonation of delay.

7 The Apex Court in the matter of **Pundlik Jalam Patil Vs. Ex.Engg. Jalgaon Medium Project and Ors, 2008(6) BCR 513** held that unless and until sufficient cause is shown, inordinate delay should not be condoned.

8 The Apex Court in the matter of **Oriental Aroma Chemical Industries Limited Vs. Gujarat Industrial Development Corporation reported in 2010 (5) SCC 459**, held that in the absence of sufficient cause, Court should not condone the delay.

9 The Apex Court in the case of **B. Madhuri Gaud Vs. B. Damodar Reddy, 2012 (12) SCC 693** held that if sufficient cause is not shown, delay should not be condoned.

10 The Apex Court in the matter of **Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy 2013(12) S.C 450** held that if sufficient cause is not shown, application for condonation of delay be rejected.

11 Considering the submissions made by the learned Counsel for the applicant, averments made in the Civil Application and law laid down

by the Apex Court, I do not find any substance in the present Civil Application.

12 Hence, Civil Application stands rejected.

(K.K.TATED, J.)