

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

CA NO.4086/2016

**904 CIVIL APPLICATION NO. 4086 OF 2016
IN FA/492/2005**

SHIVRAM RAMAJI KOKARE AND ANR
VERSUS
RIYAZUDDIN R SHAIKH AND ANR

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Advocate for Applicants : Mr.V M Chate
Smt.A N Ansari, Adv., for R/1
Mr.Dhananjay Deshpande, Adv., for respondent no.2.

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CORAM : P.R.BORA, J.
Dated: March 31, 2016

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PER COURT :-

1. The legal representative of deceased appellant no.2 has filed the present application for taking his name on record by condoning the delay which has occasioned in filing the application. The delay of 915 days has been caused. Learned Counsel for the applicant submitted that the original claimants had filed the instant First Appeal challenging the judgment and award dated 28.10.2004 passed by the Motor Accident Claims Tribunal, Beed, in M.A.C.P. No.174/2001, seeking enhancement of the amount of compensation. Learned Counsel submitted that during pendency of the present appeal, appellant No.1 Shivram Kokare died on 12.9.2005. Since the wife of deceased Shivram was appellant no.2, no separate application was filed for bringing legal representatives of deceased appellant no.1 Shivram on record. Learned Counsel further submitted that, however, appellant no.2 also died on 13.5.2013. Learned Counsel further submitted that the present applicant was not aware of pendency of present

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proceedings. However, the moment he came to know from the Advocate of the Original appellants about pendency of the present appeal, he obtained the relevant documents i.e. death certificate of appellant no.2 and, thereafter, immediately has filed the present application. Learned Counsel submitted that considering the genuine reasons because of which the delay has been caused on the part of the present applicant in filing the present application, the same may be condoned in the interest of justice.

2. Shri Deshpande, learned Counsel appearing for the Insurance Company has opposed for condoning the delay, stating that no sufficient reasons are stated for occurrence of the delay.

3. I have considered the submissions made on behalf of the learned Counsel appearing for the parties. After having gone through the contents of the application, it appears to me that the delay occasioned has been sufficiently explained by the applicant. The delay caused does not appear to be intentional. In the circumstances, opportunity needs to be given to the applicant to prosecute the appeal further seeking enhancement in the amount of compensation. I am, therefore, inclined to allow the present application. Hence, the following order:

ORDER

a) The application is allowed. The delay caused in filing the application is condoned.

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b) The name of the applicant be taken on record as legal representative of deceased appellants.

(P.R.BORA, J.)

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