

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

44 CIVIL APPLICATION NO.8769 OF 2016
IN FAST/7472/2016

PRATIBHA PANDURANG HAWALE AND ORS
VERSUS
BHAUSAHEB NAMDEO MUNDE AND ANR

...

Adv.for Applicants : Mr. Pokale Dnyaneshwar B.
Mr. Shirsat Suhas R. Adv For Resp 1;
Mr. Rathi Swapnil S. Adv For.

CORAM : P.R.BORA, J.

DATE : 20th December, 2016.

PER COURT :

1) Heard learned Counsel for respective parties.

2) Delay of 465 days has occurred in filing the present appeal by the applicants. On perusal of the application, it is revealed that the only reason which has been assigned in justification of the delay so occurred is that applicant Nos. 2 and 3 are minor and applicant Nos. 4 and 5 are old aged persons and whatever action was to be taken was to be taken by applicant No.1. In such

circumstances, according to the applicants, the appeal could not be filed within stipulated period of limitation. The learned Counsel has, therefore, prayed for allowing the application and to extend an opportunity to the appellant/applicant to contest the matter on merits.

3) Learned Counsel appearing for the respondents have opposed for condoning the delay. According to the learned counsel, no justifiable reasons are assigned for occurrence of such huge delay. The learned Counsel, therefore, prayed for rejecting the application.

4) The present appeal is filed for seeking enhancement in the amount of compensation as awarded by the Motor Accident Claims Tribunal (for short, the Tribunal). The only reason which has been assigned, as discussed above, cannot be said to a sufficient cause for the applicants in view of the fact that even while filing of the

claim petition, the position was the same and all these actions were taken by applicant No.1 herself. Further actions could have been also taken by applicant No.1 within the stipulated period. It is thus evident that the delay of such huge period cannot be condoned for the reason which is assigned in the application. I see no merit in the application for condonation of delay. The application deserves to be rejected and the same is accordingly rejected. Consequently, the appeal which is on stamp number also stands dismissed. Pending CA, if any, stands disposed of.

5) Court fees, if refundable, be refunded in accordance with the Rules.

(P.R.BORA)
JUDGE

bdv/