

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

925 CIVIL APPLICATION NO.11189/2016
IN
FIRST APPEAL NO.949 OF 2010

SMT MANGALABAI BHART MALI (MAHAJAN) AND ORS
VERSUS
HARDEEPSINGH DARASINGH AND ORS

...

Advocate for Appellants : Mr. Bhokarikar Madhav
M.

CORAM : P.R.BORA, J.

DATE : 12th August, 2016.

PER COURT :

1) Heard. The applicants/appellants have filed the present application seeking restoration of the present appeal against Respondent Nos.1 and 3 by condoning the delay of 1470 days caused in filing the CA for restoration.

2) Shri Bhokarikar, learned Counsel appearing for the applicants, submitted that the

applicants are Widow, minor children and old parents of the deceased. The learned Counsel submits that Respondent Nos.1 and 3 had not appeared before the Tribunal also. The learned Counsel further submits that since the notices could not be served on Respondent Nos.1 & 3 on the given addresses, there was no option for the applicants except to serve the said respondents by way of paper publication. The learned counsel has, therefore, prayed for allowing the application.

3) The learned counsel appearing for the insurance company has opposed for allowing the present application stating that inordinate delay has occurred in filing the present application.

4) After having considered the submissions advanced by the learned Counsel appearing for the respective parties, it appears to me that the grounds, which are raised by the applicants in exception to the impugned Award, need to be

considered on their own merits and as such, the applicants need to be given an opportunity to contest the matter on merits. I am, therefore, inclined to allow the present application.

5) The application is allowed. The appeal stands restored as against Respondent Nos.1 and 3. The order dated 24.7.2012 passed the learned Registrar(Judicial), dismissing the appeal as against Respondent Nos.1 & 3 is set aside.

6) The applicants are permitted to serve Respondent Nos.1 & 3 by way of issuing public notice in "Daily Punya Nagari" in Thane and Jalgaon Editions, where Respondent Nos.1 & 3 are stated to be residing. The applicants to take all necessary steps in this regard within a period of six weeks and file an affidavit of service.

6) It is, however, clarified that in the event the appellants succeed and the amount of compensation, if, is enhanced, the

appellants/applicants will not be entitled for
any interest of the delayed period of 1470 days.

(P.R.BORA)
JUDGE

bdv/