

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

CA NO.631/2016

23 CIVIL APPLICATION NO. 631 OF 2016
IN
FAST/26290/2015

AMOL PANDURANG SHINDE
VERSUS
THE DIVISIONAL CONTROLLER, M.S.R.T.C., DIV. OFFICE
AURANGABAD

...
Advocate for Applicants : Mr. Mohit R. Deshmukh
Advocate for Respondent : Smt. Ranjana Reddy

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

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PER COURT :-

1) Delay of 1771 days has been caused in filing the present appeal. The same is sought to be condoned.

2) Learned Counsel appearing for the applicant / appellant submitted that, at the time of when original claim petition was filed and decided the appellant / applicant was minor. Learned Counsel submitted that, in the meanwhile, some events had occurred like second amputation of the leg and more complications in the injured leg, because of which the applicant could not take appropriate steps for filing the present appeal.

3) Learned Counsel submitted that, though the claim petition was partly allowed, the amount so awarded was directed to be kept in fixed deposit and the applicant / appellant could not utilize the said amount. Learned Counsel further submitted that, after attaining majority, the applicant /

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appellant has approached the Counsel, provided him necessary information and the present appeal has been filed. Learned Counsel therefore prays for condonation of delay, which has occasioned in filing the appeal.

4) Smt. Reddy, learned Counsel appearing for respondents, has strongly opposed for condoning the delay. Learned Counsel submitted that though the applicant / appellant was minor at the relevant time, the mother of the petitioner was acting as a caretaker and when she could file claim petition on behalf of the applicant / applicant, she also could have preferred appeal against the judgment and award in the said case. According to the learned Counsel, the reasons stated are not sufficient for condoning the delay. In the alternative, learned Counsel submitted that if at all this Court is inclined to condone the delay, the petitioner may be asked to submit an undertaking that he will not claim any interest towards the intervening period in the event his appeal is allowed and the claim amount is enhanced. On such submission, learned Counsel appearing for the applicant undertakes that the applicant / appellant will not claim any interest towards the period of delay caused in filing the present appeal in the event appeal is allowed and amount of compensation is enhanced.

5. In view of the submissions made and the reasons assigned in the application which, according to me, are sufficient to condone the delay, the present application is

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allowed. Delay stands condoned subject to filing of an undertaking by the applicant to the effect that, he will not claim any interest of the intervening period of 1771 days in the event his appeal is allowed. The appeal be registered in accordance with law.

(P.R.BORA, J.)

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