

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

**CIVIL APPLICATION NO. 398 OF 2012
IN
FIRST APPEAL (ST.) NO. 681 OF 2012**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. A. B. Tajane for the applicant.

**CORAM : K. K. TATED, J.
DATED : 16/02/2016**

PC.:

. Heard learned Counsel for the applicant.

2 Though the respondents are duly served, no one appeared on behalf of them, when the matter called out.

3 This civil application is preferred by claimants for condonation of 7 years and 288 days delay in filing First Appeal challenging the Judgment and Award dated 11.12.2003 passed by the Motor Accident Claims Tribunal, Solapur in M.A.C.P. No. 365 of 1998 by which the Tribunal awarded sum of Rs.3,94,000/- with 9% interest by way of compensation.

4 By this First Appeal, the applicant is seeking additional compensation.

5 The learned Counsel for the applicants

submits that in accident which occurred on 12.09.1996, the applicant no.1 lost her husband. He submits that at that time, the deceased was 38 years old. He was earning Rs.5,000/- per month. Hence, the applicant filed claim petition under Section 166 of the M.V. Act claiming compensation of Rs.15 lacs.

6 The learned Counsel for the applicant submits that though the Judgment and Award passed by the Tribunal on 11.12.2003, they filed application for certified copy on 03.11.2008 and same was received on 30.12.2008. Thereafter, the applicant filed present First Appeal in this Court on 04.01.2012.

7 The learned Counsel for the applicant submits that applicants are uneducated. They do not have any knowledge about the law. He submits that even the Advocate who appeared on behalf of applicant in Trial Court failed to suggest them to file First Appeal for additional compensation as claimed by them. He submits that though the Advocate appearing on behalf of applicant in Trial Court and handed over the cheque for the compensation awarded by the Tribunal, he failed to hand over the certified copy of Judgment and Award passed by the Tribunal.

8 The learned Counsel for the applicant submits that applicant lost her son on 19.08.2006. He submits that the amount received by the applicant by way of compensation, same was spent by the

applicant for marriage of her two daughters. He submits that for want of advice from the concerned Advocate and financial difficulty, there is delay in filing First Appeal. He submits that the delay is not intentional. He submits that in the interest of justice, this Hon'ble Court be pleased to condone the delay in filing First Appeal. He submits that if delay is not condoned, irreparable loss and injury will be caused to the applicant. He submits that they have good chance of success in the present matter. In support of this contention, the learned Counsel for the applicant relies on paragraphs 3 to 9 of the Civil Application.

9 I heard learned Counsel for the applicant at length. It is to be noted that in the present proceeding, there is delay of 7 years and 288 days in filing First Appeal. Applicant has not disclosed the name of Advocate who failed to give them proper advise. Not only that, applicant has not disclosed why there was delay on their part for more than 5 years in applying certified copy of Judgment and Award passed by the Tribunal. It is to be noted that in the present proceeding, the amount awarded by the Tribunal, in favour of applicant was Rs.3,94,000/- with 9% interest per annum. That amount was paid to the applicant thereafter, immediately. Therefore, the reasons given by the

applicant about the financial difficulties cannot be considered for the entertain the present Civil Application. It is to be noted that the applicant failed to disclose the sufficient cause for condonation of more than 7 years delay in filing First Appeal.

10 Considering this fact, I do not find any substance in the present Civil Application.

11 Hence, Civil Application stands rejected.

(K.K.TATED, J.)