

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**41 CIVIL APPLICATION NO. 5374 OF 2015
IN FAST/9833/2014**

CHHABUBAI LAXMAN GERANGE AND OTHERS
VERSUS
SHITAL VILAS DAGWAR AND OTHERS

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Advocate for Applicants : Mr. Garud N.C.
Advocate for Respondent No.1 : Mr. Kadam Prasad B.

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CORAM : K.K. SONAWANE, J.

DATE : 18th September, 2017

PER COURT :

1. Heard learned counsel for the applicants /claimants and learned counsel for respondent No.1. Despite service of notice no one appears for respondent Nos.3 and 4. Notice to respondent No.1-A returned unserved. Learned counsel for the applicants requested to adjudicate the present application in absence of respondent No.1, as the notice issued to respondent No.1 is served and notice to respondent No.1-A is returned unserved. Hence, he submits that

the application may be heard, and in case the application is allowed, the applicants may be permitted to serve the notice of admission of Appeal to respondent No.1-A through paper-publication.

2. At this juncture, as per the contention of learned counsel for the applicants in regard to appearance of respondent No.1-A in this application, it seems that the respondent No.1 and 1-A, both remained absent before learned Tribunal and therefore claim application was decided exparte against them. Therefore, there is no propriety to keep in abeyance the present application to secure the presence of respondent No.1-A in this application. Therefore, I prefer to proceed further to decide the present application in absence of respondent No.1-A.

3. Heard learned counsel for the applicants and learned counsel for respondent No.1.

4. I am of the considered opinion that reasonable opportunity needs to be given to the

applicants to ventilate their grievances before the Appellate Forum. The applicants have filed the application for compensation under Motor Vehicles Act. In view of nature of subject matter, it is imperative to extend latitude while dealing with the application for condonation of delay, by adopting liberal and pragmatic approach. Considering the reasons mentioned in the application I do not find any impediment to allow the application for condonation of delay. Hence, application is allowed in terms of prayer clause 'B'. The delay caused in filing First Appeal is hereby condoned. Registry to take requisite steps for further process.

5. On registration of appeal, re-issue notice to the respondents. Learned counsel Mr. P.B. Kadam waives service of notice on behalf of respondent No.1. Appellants are permitted to serve notice to respondent No.1-A through paper publication in daily newspaper circulated within the jurisdiction of Nagpur District.

6. Meanwhile call record and proceedings. Print dispensed with. After compliance of procedural formalities of paper-book etc., the appeal be listed for final hearing on 1st November, 2017 at the stage of admission.

(K.K. SONAWANE, J.)