

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 14127 OF 2016
IN FAST/21630/2016

SHAFIK SHABBIR TAMBOLI
VERSUS
HAJI LATIF MOD. SHABBIR TAMBOLI AND ANOTHER

...
Advocate for Applicant : Mr. R. A. Tambe.
...

CORAM : K.K. SONAWANE, J.

DATED : 7TH NOVEMBER, 2017.

Order :-

Heard learned counsel for applicant (original claimant).
Despite service of notice, none appears on behalf of both respondents.

2. This is an application for condonation of 38 days delay caused for filing First Appeal against the impugned Judgment and Award passed by the learned Motor Accident Claims Tribunal in Motor Accident Claim Petition No. 199 of 2014.

3. According to learned counsel for applicant, the so called delay caused for filing first appeal is not intentional or deliberate, but it was caused due to unavoidable circumstances. The matter pertains to the compensation. The learned Tribunal did not appreciate the facts and circumstances in it's proper perspective and dismiss the claim petition filed under Section 163 of the Motor Vehicles Act. It has been submitted that, in case delay is not condoned, it will cause injustice and prejudice to the applicant. Therefore, he prayed to condone the delay.

4. As referred supra, despite service of notice, no one has caused appearance on behalf of respondents, therefore, opportunity is not received for hearing to them. In view of the nature of subject matter, I proceed further to adjudicate the application for condonation of delay on merit in the interest of justice.

5. I have considered the submission canvassed on behalf of applicant. Perused the application. Admittedly, matter pertains to the compensation amount for the injury sustained to the applicant in the vehicular accident. The learned Tribunal found reluctant to award the compensation to the claimant for injuries sustained in the accident. The applicant is intending to agitate the findings of the learned Tribunal. Therefore, it is necessary to provide a reasonable opportunity to the applicant to ventilate his grievance before the Appellate Forum for redressal. In case, delay is not condoned, it would cause injustice or prejudice to the applicant. Therefore, in view of the reasons mentioned in application, I do not find any impediment to condone the delay. Hence, application stands allowed in terms of prayer clause (B). The delay of 38 days caused for filing First Appeal against impugned Judgment and Order passed by the learned Tribunal in Motor Accident Claim Petition No. 199 of 2014 is hereby condoned. Registry to take requisite steps for further process.

6. On registration of appeal, issue notice to the respondents, returnable on 12th December, 2017. Meanwhile, call for record and proceedings from the concerned Trial Court.

[K. K. SONAWANE]
JUDGE

rrd.