

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

CIVIL APPLICATION NO. 12528 OF 2016
IN FAST/25111/2016

NANDABAI RAMESH DESHMUKH AND OTHERS
VERSUS
DATTA DIGAMBER GAVHANE AND ANOTHER

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Advocate for Applicants : Mr.Ashish Deshmukh h/f. Mr.S.S. Deshmukh.

Advocate for Respondent No.2 : Mr. S. S. Rathi.

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CORAM : K.K. SONAWANE, J.

DATED : 15TH NOVEMBER, 2017.

Order :-

Heard learned counsel for applicants (original claimants). Despite service of notice, none appears on behalf of both respondent No.1. Perused the application.

2. This is an application for condonation of 92 days delay caused for filing First Appeal against the impugned Judgment and Award passed by the learned Motor Accident Claims Tribunal, Hingoli, in Motor Accident Claim Petition No. 77 of 2010 dated 05-02-2016.

3. According to learned counsel for applicants (original claimants), the so called delay for filing first appeal was not intentional or deliberate, but it was caused due to unavoidable circumstances. The matter pertains to the compensation. The applicants are the original claimants seeking enhancement of compensation amount awarded by the learned Tribunal. Therefore, he prayed to condone the delay.

4. The learned counsel for respondent- Insurance Company raised objection and submits that delay has not been properly explained and same may not be condoned.

5. In view of the nature of subject matter and the reasons mentioned in application, I do not find any impediment to condone the delay. The applicants are original claimants and victim of the accident

after death of their family member in the vehicular accident. Therefore, it is necessary to provide a reasonable opportunity to the applicants to approach to the Appellate Forum to ventilate their grievance for redressal. Hence, application deserves to be allowed. Accordingly, civil application stands allowed in terms of prayer clause (B). The delay of 92 days caused for filing First Appeal is hereby condoned. Registry to take requisite steps for further process.

6. After registration of appeal, issue notice to the respondents, returnable on 19th December, 2017.

7. Mr. S. S. Rathi, learned counsel, waives service of notice for respondent No. 2.

8. In addition to regular mode of service, appellant shall serve respondent No. 1 privately by legally acceptable mode and file affidavit along with tangible proof of service on record to that effect by the returnable date.

9. Meanwhile, call for record and proceedings from the concerned Tribunal.

[K. K. SONAWANE]
JUDGE

rrd.