

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

BENCH AT AURANGABAD.

WRIT PETITION NO.7808 OF 2013

Bashratkhan S/o Sattarkhan
Pathan. ... Petitioner.

Versus

Rekhabai W/o Raju Narwade
and others. ... Respondents.

...
Mr.H.I.Pathan, advocate for petitioner.
Mr.S.V.Mundhe, advocate for Respondent Nos.6 and
7.

...

CORAM : S.V.GANGAPURWALA J.

Date : 28.08.2017.

PER COURT :

1. The application filed by the petitioner seeking condonation of delay in filing application for setting aside the exparte order in Workmen's Compensation application is rejected.

2. I have heard Mr. Pathan, learned counsel for the petitioner and Mr.Mundhe, learned counsel for Respondent Nos.6 and 7.

3. Initially, notice before admission was issued to Respondent Nos.1 to 5. They did not appear. Thereafter this Court issued notice of final disposal to Respondent Nos.1 to 4. Even after service of notice, Respondent Nos.1 to 4 did not appear.

4. Mr.Mundhe, learned counsel for Respondent Nos.6 and 7 opposes the petition and submits that medical certificates have been issued in a casual manner. Medical Certificates issued over lap, so also the petitioner had given evidence in a Criminal case but did not appear in the present matter. All these grounds are taken into consideration by the authority.

5. This Court had directed the petitioner to deposit Rs.2,00,000/- (Rupees two lacs). It is submitted by Mr.Pathan, learned counsel that petitioner has deposited Rs.2,00,000/- (Rupees

two lacs) as directed by this Court.

6. It appears that matter proceeded without written statement on the part of the present petitioner in the Fatal Accident proceedings. It was stated that the petitioner gave evidence in a Criminal case on 21.7.2009 under medical advise, so also his paternal uncle had died. The death certificate to that effect is also produced. There are various medical certificates produced on record issued by M.S. and M.B.B.S. doctors. The genuineness of the said certificates need not be doubted. The liability has been fastened on the present petitioner and it appears that the petitioner had not contested the matter by filing any written statement. The Respondent Nos.1 to 5 have not controverted the present petition nor they have come forward to withdraw the amount for all these years.

7. Considering the aforesaid conspectus and the reasons given for the condonation of delay, I am inclined to condone the delay in

filing application for setting aside exparte order. The petitioner in addition of the deposit of amount is mulct with cost of Rs.25,000/- (Rupees twenty five thousand) to be paid to Respondent Nos.6 and 7.

8. In light of the above, I pass the following order :

(a) The impugned order is quashed and set aside. The application seeking condonation of delay in filing application for setting aside the exparte order is allowed on condition that petitioner pays cost of Rs.25,000/- (Rupees twenty five thousand) to Respondent Nos.6 and 7 by 18.9.2017. The petitioner and Respondent Nos.6 and 7 shall appear before the authority on 18.9.2017. The authority shall issue notice to present Respondent Nos.1 to 5. The amount of Rs.2,00,000/- (Rupees two lac) deposited here shall be transmitted to the Civil Judge (S.D.) Hingoli/authority and in the event the application for withdrawal is made by the original claimants, the Court shall allow

withdrawal of the said amount to the original claimants as adjustment can be made subsequent to passing of the final order.

(b) With these observations, the Writ Petition is allowed. No costs.

(S . V . GANGAPURWALA, J .)

asp/office/wp7810.2013

