

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

923 CIVIL APPLICATION NO. 14985 OF 2016
IN FAST/29645/2016

DEVIDAS SAKHARAM PADAVI AND ANR
VERSUS
KHALIL MOHAMAD NOOR MOHAMAD MARWADI AND ANR

...
Advocate for Applicants : Mr. Swapnil Dargad h/f Mr. Mohit R.
Deshmukh

...

CORAM : K.K. SONAWANE, J.

DATED : 10TH OCTOBER, 2017.

Order :-

1. Heard learned counsel for the applicants-original claimants. Despite service of notice none appears for respondent No. 2. The application came to be dismissed against respondent No. 1 for want of steps. This application pertains to the condonation of delay for filing the appeal against respondent No. 1 owner of the offending vehicle and respondent No. 2 - Insurance Company for enhancement compensation amount arising from the vehicle accident. Admittedly, respondents No. 1 and 2 were held jointly and severally liable to pay the compensation determined by the learned Tribunal. In such circumstances, there is no impediment to deal with application for condonation of delay, even it has been dismissed against respondent No. 1 owner of the vehicle.

2. According to learned counsel for the applicant, the delay

caused is not intentional or deliberate, but it caused due to unavoidable circumstances. The applicant claims compensation for the death of their son Chandan Devidas Padavi, who was four years old at the relevant time. In view of the attending circumstances and the reasons mentioned in the application, I find it would be justifiable to condone the delay for reasonable opportunity to the applicants to ventilate their grievance before the Appellate Forum for redressal. Hence, application stands allowed in terms of prayer clause "B". The delay caused in filing the appeal against impugned Award is hereby condoned. Registry to take requisite steps for further process.

3. On registration of appeal, issue notice to respondents, returnable on 28-11-2017.

4. In addition to regular mode of service, applicants/ appellants to serve notice to respondents privately by any fastest mode as may be permissible in law and file affidavit of service of notice along with tangible proof by returnable date.

5. Meanwhile, call for record and proceedings from the concerned Reference Court.

Sd/-
[K. K. SONAWANE]
JUDGE

mtk.