

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

CIVIL APPLICATION NO. 16394 OF 2016
IN FAST/33333/2016

REHANKHAN NOORKHAN
VERSUS
KISHOR UDDHAVRAO ZUNGARE AND ANOTHER

...
Advocate for Applicant : Mr. P. S. Agrawal.
Advocate for Respondent No.2 : Mr. S. V. Kulkarni.

...

CORAM : K.K. SONAWANE, J.

DATED : 10TH NOVEMBER, 2017.

Order :-

When the matter is called out, learned counsel for applicant (original claimant) is present. Despite service of notice, none appears on behalf of both respondents. Matter pertains to the compensation amount. In such circumstances, there is no propriety to keep the matter in abeyance for securing presence of respondents. Therefore, I proceed to adjudicate the application for condonation of delay in absence of both respondents.

2. Heard learned counsel for applicant (original claimant). He submitted that the applicants are original claimants, who filed application for compensation under Section 166 of the Motor Vehicles Act before the learned Tribunal for the injuries sustained to the application-original claimant. The learned Tribunal appreciated the evidence on record and granted meager amount of compensation in favour of claimant. Therefore, the claimant is intending to prefer appeal, but there was delay of 120 days caused for filing First Appeal against the impugned Judgment and Award passed by the learned Motor Accident Claims Tribunal, Parbhani, in Motor Accident Claim Petition No. 369 of 2013 dated 28-03-2016.

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. 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. I have considered the submission canvassed on behalf of applicant. Perused the application. Admittedly, matter pertains to compensation amount for the injury sustained to the applicant in the vehicular 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 120 days caused for filing First Appeal against impugned Judgment and Order passed by the learned Tribunal in Motor Accident Claim Petition No. 369 of 2013 is hereby condoned. Registry to take requisite steps for further process.

5. On registration of appeal, issue notice for admission to both respondents, returnable on 19th December, 2017. Meanwhile, call for record and proceedings from the concerned Tribunal.

[K. K. SONAWANE]
JUDGE

rrd.