

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

923 CIVIL APPLICATION NO. 14817 OF 2016
IN FAST/33977/2016 WITH CA/14818/2016 IN FAST/33977/2016

THE EXECUTIVE DIRECTOR, MAHENDRA BUSINESS AND
CONSULTING SERVICES PVT. LTD. AND ANOTHER
VERSUS

VIJAY PANDURANG DANTKALE AND ANR

...

Advocate for Applicants : Mr. M. K. Bhosle h/f. Mr. S.S.Gangakhedkar.

Advocate for Respondents No. 1 and 2: Mr. G. N. Chincholkar.

...

CORAM : K.K. SONAWANE, J.

DATED : 07TH SEPTEMBER, 2017.

Order :-

Heard learned counsel for applicants and learned counsel for respondents. Perused the application.

2. According to the learned counsel for applicants, the impugned Judgment and Award was passed by the learned Commissioner in absence of applicants-appellants. It has been submitted that, the applicants had engaged the counsel for appearance before the learned Commissioner. But, he had not filed any say nor communicated for adducing any evidence on behalf of the appellants. The learned Commissioner adjudicated the application in absence of applicants and passed the impugned Judgment and Order, which is the subject matter of the present appeal. But, there is delay of 219 days for filing the appeal. The applicants came to know about impugned Order of the learned Commissioner after receipt of notice of its execution petition filed on behalf of respondents. The learned counsel submits that, the delay is not intentional and deliberate, but, due to unavoidable situation. Therefore, he prayed to condone delay.

3. Learned counsel for respondent raised objection and submits that the delay has not been properly explained, and therefore, it should not be condoned.

4. I have given anxious consideration to the arguments canvassed on behalf of both sides. Perused the application. Admittedly, the matter pertains to the compensation under the Workmen's Compensation Act. The deceased Ravindra was an employee of respondents and while discharging his duty, he succumbed to the injuries sustained in the accident. The learned Commissioner imposed monetary liability on the respondents No. 1 and 2. Considering the nature of subject matter, I find it justifiable to extend latitude to the applicants for condonation of delay. It would be appropriate to grant reasonable opportunity to the applicants to ventilate their grievance before the Appellate Forum. It would not cause injustice and prejudice to the respondents. In contrast, it would sub-serve the purpose for substantial justice.

5. In view of reasons mentioned in the application, delay is hereby condoned subject to cost of Rs.5,000/- (Rs. Five Thousand Only) to be deposited in this Court within two weeks. Application for condonation of delay stands allowed in terms of prayer clause 'B' subject to aforesaid condition. Registry to take requisite steps for further process after due compliance. Civil Application stands disposed of in above terms.

6. After registration of appeal, same be listed for final hearing on merit at the admission stage.

[K. K. SONAWANE]
JUDGE

RRD.