

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4205 OF 1997
IN
FIRST APPEAL (ST.) NO. 11935 OF 1995

Maharashtra State Road Transport
Corporation

.. Applicant/Appellant

vs.

Smt. Kamalabai N. Vernekar
w/o. Late Shri. Narayan R. Vernekar
and ors.

.. Respondents

Mr. C.M. Lokesh i/b Mr. G.S. Hegde for the Applicant.
Ms S.M. Dandekar for Respondent No.1.

CORAM : M. S. SONAK, J.
DATE : 04 JANUARY 2017.

P.C. :-

1] Although, the delay in instituting the first appeal is of only 105 days, the civil application is required to be dismissed on the grounds of failure on the part of the applicant in taking steps to serve respondent Nos.2 and 3 at least from the year 2007 onwards.

2] The challenge in the first appeal is to the award dated 1 October 1994, by which, the appellant has been directed to pay compensation of Rs.30,000/- to respondent No.1 claimant on account of death of her daughter Mangala in an accident, which took place on 7 May 1983 on Bombay Pune Road. Learned counsel appearing for respondent No.1-claimant submits that in the same accident, apart from her daughter Mangala, even her husband sustained fatal injuries. She points out that she has already instituted an appeal seeking enhancement.

3] On 30 July 1997, this court directed issuance of notice subject to the applicant depositing costs of Rs.1,500/-. Such costs were deposited on 1 October 1997 and thereafter notices were issued. For a period of almost ten years, neither the notices were served nor were any steps taken for services of such notices upon respondent Nos. 2 and 3.

4] Ultimately, the Registrar (Judicial) by order dated 9 January 2007 directed the applicant to amend the address of respondent Nos.2 and 3, so that, fresh notices could be issued and service effected upon the said respondents. The record indicates that from 9 January 2007 till date, i.e., for a period of almost ten years, no steps were taken by the applicant.

5] Apart from the fact that this is the matter which pertains to the year 1995, it must be noted that on account of pendency of this matter, respondent no.1 claimant has been deprived of the amount of Rs.30,000/- as awarded in the impugned award. In such a situation, greater diligence was expected from the applicant. From the circumstances on record, it is quite clear that the applicant has been negligent in the matter and there is no point in extending any further indulgence to the applicant. Accordingly, the civil application is dismissed. As a consequence, First Appeal (St.) No. 11935 of 1995 also stand dismissed.

6] In case any amount has been deposited by the applicant before the MACT or before this Court, respondent No.1 shall be at liberty to withdraw the same without prejudice to her right to pursue the

appeal instituted by her. In case the amount is not deposited, needless to add that respondent No.1 shall be at liberty to institute execution proceedings, which shall be disposed of by the executing court, as expeditiously as possible and in any case within a period of three months from the date of its institution.

(M. S. SONAK, J.)

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