

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

CIVIL APPLICATION NO. 10291 OF 2017
IN FAST/23242/2017

ASHABAI RAMDAS JADHAV AND ORS
VERSUS
THE DIV. CONTROLLER M.S.R.T.C., JALGAON.

...
Advocate for Applicants : Mr. Madhav M. Bhokarikar.
Advocate for Respondent sole : Mr. M. G. Goyanka
...

CORAM : K.K. SONAWANE, J.

DATED : 25th JUNE, 2018.

Order :-

1. Heard learned counsel for appearing parties.
2. Perused the application. Present application is filed by the applicants for condonation of 642 days delay caused in presenting the appeal against impugned judgment and award passed by the learned Motor Accident Claims Tribunal, Jalgaon in MACP No. 200 of 2013.
3. The learned counsel for the applicants contends that the applicants are ready to waive statutory benefit of interest etc. for the delayed period sought to be condoned in case application is allowed.
4. Learned counsel Mr. Goyanka for respondent-sole raised objection and submits that there is inordinate delay caused in filing the appeal. The applicants - claimants did not explain the delay in proper manner. Therefore, so-called delay may not be condoned.
5. Admittedly, present claim petition is filed for compensation arising from the vehicular accident resulting into death of family member of the applicants. The applicants are widow and children of the deceased Ramdas Jadhav.
6. In view of nature of subject-matter and reasons mentioned in the application, it would be justifiable to grant one more opportunity to the applicants to approach appellate Court for seeking enhancement of

compensation in the interest of justice. It would not cause injustice and prejudice to other side. In contrast, it would sub-serve purpose in the interest of justice. Hence, there is no impediment to condone the delay with certain terms and conditions.

7. Accordingly, application is allowed in terms of prayer clause "b". The delay caused to present the appeal against the impugned Judgment and Award stands condoned subject to condition that applicants-appellants shall not claim statutory benefit of interest on the compensation amount for the delayed period allowed to be condoned, in case, any enhanced compensation is awarded by this Court after adjudication of appeal on merit.

8. Pursuant to aforesaid waiver of statutory claim, the applicants-appellants shall furnish undertakings to that effect and place it on record of the appeal to enable this Court to take note of the same, while decision of the appeal on merit. Registry to take requisite steps for further process.

9. The civil application is allowed in aforesaid terms and stand disposed of.

10. On registration of appeal, issue notice to the respondents. Learned counsel Mr. Goyanka waives service of notice for sole respondent.

11. Meanwhile, call for record and proceedings .

12. List the appeal for admission in due course.

[K. K. SONAWANE]
JUDGE

MTK.