

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

CIVIL APPLICATION NO. 2003 OF 2017
IN FAST/32348/2016

PRACHI SHYAM JIBHAKATE
VERSUS
SATISH SHANTIMAL LODHA AND ORS

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Advocate for Applicant : Mr. Ambar S. Barlota.
Advocate for Respondent No.1: Mr. R. F. Totla.
Advocate for respondent No. 2 : Mr. Ganesh S. Yadav
Advocate for Respondent No.3 : Mr. Sudhir V. Kulkarni.

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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 applicant for condonation of 2586 days delay caused in presenting the appeal against impugned judgment and awarded passed by the learned Chairman, Motor Accident Claims Tribunal, Aurangabad in MACP No. 186 of 2005.
3. The matter pertains to compensation for the injuries sustained to the applicant in motor vehicular accident. Learned counsel for the applicant-claimant shown inclination to waive statutory benefit of interest etc. for the delayed period, if compensation came to be enhanced in present appeal.
4. Learned counsel Mr. Totla for respondent No. 1-original owner, Learned Counsel Mr. Yadav for respondent No. 2 and learned counsel Mr. Kulkarni for respondent No. 3 – Insurance Company raised objection and submits that there is inordinate delay caused in filing the appeal. The applicant - claimant 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. The applicant-claimant sustained injuries, which resulted into 100% disability. However, the learned Tribunal arrived at the conclusion and granted compensation amount by taking into

consideration 50% of the physical disability sustained to the applicant-claimant. Being dissatisfied with quantum of compensation, the applicant is intending to present appeal, but there is colossal period for filing the appeal. The applicant is ready to waive benefit of interest on the compensation amount for delayed period, if any enhancement granted by this Court.

6. In such circumstances, there is no impediment to extend one more reasonable opportunity to the applicant-claimant to approach appellate forum for redressal in regard to compensation amount. 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. In sequel, 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 applicant-appellant 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 applicant-appellant 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 waives service of notice for respective respondents.

11. Meanwhile, call for record and proceedings .

12. List the appeal for admission in due course.

Sd/-

[K. K. SONAWANE]
JUDGE

MTK.