

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

CIVIL APPLICATION NO. 15517 OF 2015
IN FIRST APPEAL STAMP NO. 33921 OF 2015

MADHAVRAO SHANKARRAO BHOSLE
VERSUS
ARUNA MADHUKAR MORE AND OTHERS

WITH
CIVIL APPLICATION NO. 15518 OF 2015
IN
FIRST APPEAL STAMP NO. 33921 OF 2015

Madhavrao s/o Shankarrao Bhosle
Vs.

Aruna w/o of Madhukar More

...

In both applications

Advocate for Applicants : Shri. V.B. Dhage

Advocate for Respondent Nos. 1 to 3 : Shri. A.G. Vasmatkar

CORAM : A.M. DHAVALÉ,J.

DATE: 27th JULY, 2018

PER COURT:-

1. This is an application by owner of one of the vehicles on whom the learned trial Judge fastened liability of 40% contributory negligence and apportionment.
2. I have heard the parties. The judgment of the trial court states that deceased was driving the vehicle of the

present applicant and the present applicant was pillion rider. It is difficult to comprehend how deceased as well as the present applicant could be held jointly liable along with the driver/owner of another vehicle. The reasoning in para No.15 is shocking to the conscience.

3. The learned advocate for the applicant submits that the applicant had engaged advocate and has filed written statement, but he did not receive instructions from his advocate and due to negligence of his advocate, the matter was decided in his absence. He came to know about the order only on receiving of the notice of execution. Considering these facts and circumstances, the delay of 242 days is condoned subject to costs of Rs.2000/- within 10 days payable to the claimants.

4. On payment of costs, the appeal be admitted and notices be issued to the unserved respondents.

5. Mr. Vasmatkar is present for respondent Nos.1 to 3 and waives service of notice.

6. Copy of appeal memo be provided.

CIVIL APPLICATION NO. 15518 OF 2015
IN
FIRST APPEAL STAMP NO. 33921 OF 2015

1. In the light of the facts referred to above, the execution and operation of the decree to the extent as against the present appellant is stayed pending the appeal.
2. Parties agree to argue the appeal finally at admission stage.
3. Both Civil Applications stand disposed of.

(**A.M.DHAVALA, J**)

mta