

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

944 CIVIL APPLICATION NO.2335 OF 2018
IN FIRST APPEAL NO. 18/1999

RAMSWAROOP LAXMANDAS BHATIYA AND ANOTHER
VERSUS

MAMTA PARIKSHIT RAJA AND OTHERS
WITH

CIVIL APPLICATION NO.2334 OF 2018
IN FIRST APPEAL NO. 20/1999

RAMSWAROOP LAXMANDAS BHATIYA AND ANOTHER
VERSUS
JAYANT TRIBHOVANDAS MANUBARWALA AND OTHERS

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Advocate for Applicant : Mr M. M. Ambhore
Advocate for Respondent No.1 : Mr. M. H. Patil

CORAM : V. L. ACHLIYA, J.

DATE : 2nd August, 2019

ORDER

1. The present applications are filed seeking permission to deposit the cost of Rs.10,000/- as per order dated 05.10.2016.

2. Heard learned counsel for the applicant and the respondents.

3. The applicant Insurance company had preferred the appeals challenging the awards passed by the Motor Accident claims Tribunal Dhule. The same were registered as First Appeal No.18/1999 and First Appeal No.20/1999. The appeals were dismissed on 15.01.2015 in default of the appellant to appear and prosecute the

appeals. After the order dated 15.01.2015 passed, the applicant/appellant moved application for setting aside said order and restoration of the appeals with condonation of 562 days delay in filing applications. The applications seeking restoration were registered as Civil Application Nos. 12167/2016 and 12161/2016. By order dated 5th October, 2016 these applications were allowed subject to payment of costs of Rs.10,000/- in each of the matters. The payment of costs within four months made condition precedent to restore the appeals. However, order to deposit the costs was not complied with within four weeks and thereafter till filing of these applications. By the present applications, the appellant has urged to condone the delay to deposit the costs and restore the appeals.

4. Learned counsel for the respondents opposed the applications with contention that for the negligence on the part of the appellant, the respondents/claimants should not suffer. It is pointed out that the claim petitions were filed in the year 1988 and same were allowed in the year 1999. The appeals filed in the year 1999, though fixed for argument, the same were not prosecuted. Therefore, the Court was constrained to pass the order, dismissing the appeals in default of

the appellant to appear and prosecute the appeals. In this background, the learned counsel submits that there is no case to entertain the request to extend the time to deposit the costs by condoning delay in deposit of costs.

5. On due consideration of the submissions advanced, in the light of over all facts of the case and the plight of the respondents who are litigating since the year 1988 to seek seeking compensation under the Motor Vehicles Act, I am not inclined to entertain the request. There is absolutely no justification provided for not complying the order within the period prescribed by the Court. The reasons assigned are not sufficient to condone the delay. The manner in which the applicant/appellant has acted in conduct of proceedings reflects the casual approach in conduct of the proceedings by the appellant. I am thus not inclined to entertain the applications. Accordingly, the applications are rejected.

(V. L. ACHLIYA, J..)

JPC