

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

42. CIVIL APPLICATION NO.7303 OF 2017
IN FAST/11784/2017

VIMAL ASHOK BADE AND OTHERS
VERSUS
RAMESH EKANATH MUNDE AND ANOTHER

Mr. C.V. Bhadane, Adv., h/f. Mr. S.V. Suryawanshi, Adv. for applicants
Mr. S.V. Warad, Advocate for respondent No.1
Mr. R.D. Borde, Adv. h/f. for Mr. U.S. Malte, Adv. for respondent No.2

CORAM : V.L. ACHLIYA, J.

DATE : 15th April, 2019

PER COURT :

1. Applicants-appellants have moved this application for condonation of 179 days' delay caused in filing appeal against the judgment and order dated 8th August 2016 passed by the Commissioner for Workmens' Compensation, Ambajogai District Beed in W.M.C. No. 8/2012, whereby the application filed by applicants seeking compensation has been rejected.
2. Heard learned Counsel for the applicants and the respondents.
3. In brief it is contention of the learned Counsel for the

applicants that the delay caused in filing appeal is for the reasons set out in detail in the application seeking condonation of delay. He submits that the applicants are poor persons. The judgment and order dated 8th August 2016 in the matter was not communicated to the applicants by the Advocate appearing in the matter. They got knowledge about the order passed in the month of December 2016. Thereafter they applied for certified copies. After arranging funds to file appeal they filed appeal. In the process, delay of 179 days has been caused to file the appeal. It is submitted that the claim application filed by the applicants has been rejected. In case delay is not condoned, there is every likelihood that the meritorious matter may likely to be rejected for technical reasons. On the other hand, if delay is condoned, no serious prejudice would cause to other-side and ultimately the case will be decided on merits.

4. Learned Counsel for respondents submits that no sufficient cause has been assigned to condone the delay.

5. Considering the submissions advanced in the light of the unchallenged pleadings made in the application and the reasons assigned for seeking condonation of delay of only 179 days, I am of the view that the delay deserves to be condoned. In case delay is not condoned, there is likelihood that the applicants may suffer serious prejudice as the Commissioner for Workmen's Compensation

has dismissed their claim. In case delay is condoned no serious prejudice will cause to respondents and ultimately the case will be decided on its own merit. I am, therefore, inclined to allow the application. Accordingly the application is allowed in terms of prayer clause 'B'. Delay is condoned. Appeal be registered and place for admission on 20th June 2019.

6. Mr. Warad, learned Counsel waives notice for respondent No.1 and Mr. Borde, learned Counsel holding for Mr. Malte, learned Counsel waives notice for respondent No.2.

7. Call for record and proceedings.

8. The application be marked as disposed of in above terms.

Stand over to 20th June 2019.

(V.L. ACHLIYA)
JUDGE

Madkar