

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

42 CIVIL APPLICATION NO.8839 OF 2019  
IN FAST/18711/2019

SK. MOIS S/O SK. SALEEM  
VERSUS  
SUSHIL SUBHASHCHANDRA DHOOT AND ANR

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Advocate for Applicant : Mr. Deshpande Gaurav L.

Advocate for Respondents : Mr. Yatin T. Thole

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CORAM : MANGESH S. PATIL, J.

DATE : 20.11.2019

**PER COURT :**

This is an application under Section 5 of the Limitation Act, 1963 seeking condonation of delay in preferring appeal by the original claimant against the order of the Commissioner under the Employees Compensation Act.

2. The learned advocate for the applicant submits that the applicant was not to gain anything by allowing his appeal to be barred by time. There is no circumstance indicating his *mala fide* and for reasons mentioned in the application, the delay be condoned, may be by making him forgo the interest for the delayed period.

3. The learned advocate for the respondents opposes the application. He submits that there is no plausible reason given in the

application. In fact, they have preferred First Appeal No.4778/2017 impugning the self same judgment. The applicant claimant appeared in that first appeal and still has not taken care to file the appeal and the delay may not be condoned.

4. Considering the reasons mentioned in the application, in my considered view, it would be appropriate to condone the delay subject to the condition that the applicant would not be entitled to claim interest for a period of delay.

5. The application is allowed. The delay is condoned subject to the condition that in case the applicant succeeds, he shall not be entitled to claim interest for the period of delay i.e. 564 days.

**(MANGESH S. PATIL, J.)**

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