

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

**952 CIVIL APPLICATION NO.12142 OF 2015
IN FAST/20863/2015 WITH CA/12143/2015 IN
FAST/20863/2015**

NAMDEO VITHOBA FADTALE AND OTHERS
VERSUS
BARGALI BABARAO GHODKE AND ANOTHER

...
Advocate for Applicants : Shri A.A. Mukhedkar
Advocate for Respondents : Shri D.A.Madke h/f.
Shri Sanjay A. Wakure
...

CORAM : P.R.BORA, J.

DATE: 4th January, 2019

PER COURT:-

1 Heard Shri A.A.Mukhedkar, learned Counsel for the applicants and Shri D.A.Madke, learned Counsel h/f. Shri S.A.Wakure, learned Counsel appearing for the respondents.

2 Delay of 1908 days has occurred in filing the present appeal by the original respondents against W.C.A. No.7 of 2000, decided by the Commissioner for Workmen's Compensation and Civil Judge, Senior Division, Osmanabad on 06.02.2010. The learned Counsel for the applicants submitted that the applicants are the poor agriculturist and not aware of the concerned legal provisions. The learned Counsel submitted that the son of the original claimants i.e. deceased Rajendra was never in the

employment of the present applicants and despite of bringing on record the necessary evidence, that has not been properly appreciated by the Courts below. The learned Counsel further submitted that the applicants have deposited the entire amount of compensation as per the award. The learned Counsel submitted that opportunity needs to be given to the applicants to prosecute their appeal on merits.

3 The learned Counsel appearing for the respondents - original claimants, though, have opposed for condoning the delay, in the alternative have submitted that if the Court is inclined to condone the delay, appropriate costs may be imposed on the applicants.

4 After having considered the submissions of the learned Counsel for the parties, I am of the view that the reasons as are assigned by the applicants in justification of the delay caused cannot be outrightly rejected. In the circumstances, I am inclined to allow the present application for condonation of delay, of-course by imposing costs. Hence, the following order is passed:-

ORDER

- I) Civil Application No.12142 of 2015, is allowed and disposed of.
- II) The delay caused in filing the appeal is condoned subject to costs of Rs.5,000/- to be deposited by the applicants in this Court within four weeks.
- III) Appeal be registered in accordance with law.
- IV) After registration of the appeal, issue notice to the respondents. Shri D.A.Madke, learned Counsel h/f. Shri S.A.Wakure, learned Counsel waives service of notice for the respondents.
- V) List the matter for final disposal at the admission stage on 04.02.2019.
- VI) Call Record and Proceedings.

(P.R.BORA)
JUDGE

SPT

