

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

907 CIVIL APPLICATION NO.12588 OF 2019
IN FAST/32218/2019
WITH CA/12589/2019 IN FAST/32218/2019

ARUN PRALHAD PATIL
VERSUS
RUKHMAN W/O UTTAM MALODE AND OTHERS

Advocate for Appellant : Mr. B.R. Waramaa.

CORAM : MANGESH S. PATIL, J.
DATE : 12.12.2019

PER COURT :

This is an application by the original respondent in Workmen's Compensation Application No. 07/2012 in the Court of Commissioner cum Labour Court, Aurangabad. By these applications, he is seeking condonation of delay of 766 days in filing the appeal under Section 30 of Workmen's Compensation Act, and grant of stay to the impugned judgment.

2. The respondents or the original claimants have been duly served but have not appeared.

3. The learned advocate for the appellants / applicants submits that as he had incurred huge losses in his business, he had to leave his village and had gone in search of the employment. Besides he has an ailing father. His advocate before the Commissioner migrated to Mumbai. He had to engage another lawyer. On his advice Writ Petition No. 9081/2019 was filed before this Court. Time was spent bona fide in prosecuting the Writ Petition though it was not maintainable. By the order dated 06.09.2019, the Writ Petition was disposed of and he was granted liberty to convert the Writ Petition into First Appeal and all these circumstances have led to the delay. It has

occasioned bona fide. There was no ulterior motive. He has been saddled with the liability to pay compensation when there is a serious dispute as to the employer – employee relationship between him and the deceased and the delay be condoned.

3. The learned advocate further submits that since the appellant has already deposited the entire amount of the compensation in the office of the Commissioner, the execution and operation of the impugned judgment and award be stayed as an interim relief.

4. In spite of having been served with notice the respondents have not put appearance. For want of demur, I find no reason but to accept the explanation being given by the appellant for condoning the delay.

5. The delay is condoned. Register the First Appeal.

6. Issue notice in the First Appeal, returnable within eight weeks.

7. There shall be stay to the execution and operation of the impugned judgment and award till the next date.

(MANGESH S. PATIL, J.)