

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

**CIVIL APPLICATION NO.465 OF 2014
WITH FAST/35234/2013**

**SANJAY NAMDEO SALUNKE
VERSUS
VIKAS BABULAL CHAUDHARI AND OTHERS**

Mr. C.R. Deshpande, Advocate for the applicant
Mr. S.R. Patil, Advocate for respondent No.2.
Mr. R.A. Karwa, Advocate h/f Mr. R.F.Totala, Advocate
for respondent No.3.

**CORAM : S.M.GAVHANE, J.
DATED : 20.02.2019**

P.C. :-

1. Heard learned counsels for the applicant/original claimant and respondent Nos.2 and 3.

2. By this application applicant/original claimant has sought to condone 54 days' delay caused in filing appeal against the judgment and award dated 17.07.2013 passed by the Member of MACT, Dhule in MACP No.24 of 2010.

3. Learned counsel for the applicant has submitted that applicant had claimed compensation of Rs. 2,00,000/-. The Tribunal has awarded compensation of Rs. 1,70,006/-. Applicant was required to file appeal within 90 days from the date of judgment and award. In the last week of November, 2013 applicant was to go to Aurangabad to handover the file to his Advocate for

filing the first appeal but due to the illness he could not approach his Advocate at Aurangabad. In the first week of December, 2013 applicant handed over the papers to his Advocate for filing the first appeal. Applicant was under impression that court fees as paid in lower court would be required, but the Advocate informed him that the advoleraam fee is required to be paid and there is no concession in court fees in appeal. Therefore applicant was required to go back and again to make arrangement for payment of court fees and as such delay has been caused in filing the appeal. It is submitted that said delay is neither intentional nor deliberate and therefore it needs to be condoned in the interest of justice.

4. Learned counsel for respondent Nos.2 and 3 have opposed to grant the application.

5. Though the learned counsel for respondent Nos.2 and 3 have opposed to grant the application, considering the grounds of delay referred to above given by the applicant and the submissions made by the learned counsel for the applicant, I find that the applicant has properly explained the delay caused in filing the appeal and there is sufficient ground to condone the same. Therefore, application is allowed. Delay caused in filing appeal is condoned.

6. The appeal be registered. On registering the

appeal, issue notice to the respondents for final disposal of the appeal at the admission stage, returnable on 03.04.2019.

7. Mr.S.R. Patil, learned Advocate waives service of notice for respondent No.2.

8. Mr. R.A. Karwa, learned Advocate waives service of notice for respondent No.3.

9. Call record and proceedings in MACP No.24 of 2010 from the Court of MACT, Dhule.

[S.M.GAVHANE, J.]