

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.986/2019
IN
FIRST APPEAL ST NO.6179/2019
WITH
CIVIL APPLICATION NO.987/2019

Office Office Memoranda Coram, Appearances, court's orders or directions and Registrar's orders	Notes, of	Court's or Judge's orders
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Mr. P. M. Arjunwadkar for the Applicant

CORAM : K. K. TATED, J
DATE : MARCH 13, 2019

P.C.:

1 Heard. By this Civil Application, the Applicant is seeking condonation of 4 years 3 months delay in filing the First Appeal challenging the judgment and award dated 31.01.2014 passed by the Member, MACT, Jaisingpur in MACP No.2/2008 holding that the Respondent - claimant is entitled to compensation of Rs.3,69,500/- along with interest @ 7.5% p.a. from the date of decision.

2 the learned counsel for the Applicant submits that because of financial difficulty it remained on the part of the Applicant to file the First Appeal immediately. In support of this contention, he relies on para 5 of the Civil Application, which reads thus:

“5. The Applicant states that thereafter the Applicant decides to challenge the impugned order by way of filing the present First Appeal before this Hon'ble Court. The Applicant states that admittedly there is delay of 4 years and 3 months in filing the present First Appeal. The Applicant states that the Applicant belongs to very poor family and he has no sufficient means of livelihood. The Applicant further states that the Applicant and his family are living on daily wages and there is no confirm source of livelihood for their earning. The Applicant further states that the Applicant and his family are not in a position to even satisfy the bare minimum needs for their livelihood and has to borrow funds from his well wishers, friends and family members for various occasions. Therefore it was very difficult for the Applicant to raise funds for filing the present appeal. It was difficult for the Applicant even to raise the amount of Court fee stamp in addition to the Counsel fees. The Applicant explored many ways to raise the funds but he was not successful therefore ultimately he decided to borrow money from private money lenders on a higher rate of interest. The Applicant further states that his relatives are not also in a sound position who could

have helped the Applicant to come out of this unpleasant situation. The Applicant further states that the amount in terms of compensation as inflicted by the Lower Court is absolutely beyond reach of the Applicant considering his financial background mentioned hereinabove. The Applicant states that though a long period has gone since the impugned order has been passed, the Applicant could not decide to pursue the litigation by challenging the impugned order before this Hon'ble Court or not since he was seriously lacking funds therefore it took reasonable time for the Applicant to arrive at concrete decision for filing the present proceedings.”

3. The learned counsel for the Applicant submits that in the interest of justice this Hon'ble Court be pleased to condone the delay in filing the First Appeal. He submits that the Applicant has good chance of success. He submits that if the delay is not condoned, irreparable loss will be caused to the Applicant.

4 It is to be noted that in the present proceedings the accident occurred on 15.10.2007 in which the Respondent lost his wife Sou. Suvarna Suresh Wader. The Trial Court taking into account the notional income of Rs.3000/- pm held that the Respondent - claimant is entitled to sum of Rs.3,69,500/- only. Though the judgment was passed on

31.01.2014, the Civil Application is filed in February 2019 after more than four years. In any case, the financial constraint cannot be a ground for condonation of delay. Therefore, I do not find any substance in the Civil Application.

5 Hence, the Civil Application stands rejected.

6 In view thereof, the registration of the First Appeal stands rejected.

7 Refund of court fees as per the Rules.

8 Consequently, the Civil Application No.987/2019 for stay stands dismissed as infructuous.

(K.K. TATED, J.)