

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

**CIVIL APPLICATION NO.287 OF 2016
WITH
FIRST APPEAL (ST.) NO.4611 OF 2015**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Kuldeep Singh for the applicant

Mr.T.J.Pandian for the respondent

**CORAM : K. K. TATED, J
DATE : JULY 16, 2019**

P.C.:

. Heard.

2 By this Civil Application, Applicant original Claimant is seeking condonation of 5 years and 199 days delay in filing First Appeal challenging the judgment and award dated 29.04.2019 passed by Railway Claims Tribunal, Mumbai in Case No.OA 205 of 2005.

3 The learned counsel for the Applicant submits that delay is mainly on the ground of poverty and illiteracy. He further submits that

Applicant no.1 is widow. Therefore, there is delay in filing First Appeal. In support of this contention, the learned counsel for the Applicant relied on paragraph 2 to 4 of the Civil Application which reads thus:

"2. That the First Appeal is filed by the appellants on 12.02.2015, the certified copy of the order was received on 28.05.2009, and therefore there is delay of in filing This First Appeal.

3. That the appellants are poor, illiterate persons. Because of poverty and lack of knowledge for filing above said First Appeal, they could not file the First Appeal in prescribed period.

4. That the appellants are poor, illiterate persons. They are suffering destitution and starvation. They belong to very poor strata of the society therefore, they could not make arrangement for filing First Appeal hence there is delay of in filing of the First Appeal in This Honourable Court."

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

5 On the other hand, the learned counsel for the Respondent vehemently opposed the present Civil Application. He submits that present Civil Application is filed in casual manner. There is no explanation for more than 5 years delay in filing First Appeal. He further submits that though certified copies were received by the Applicant on 28.05.2009, present First Appeal was filed by them in the month of February, 2015. There is no explanation why they took more than 5 years for filing the present First Appeal in this court. Hence, Civil Application is required to be dismissed with costs.

6 Heard.

7 It is to be noted that in the present proceedings, Applicant received certified copy of judgment and award passed by the Railway Claims Tribunal on 28.05.2009. Thereafter, present First Appeal was filed before this court

in the month of February, 2015. There is not a single word in the entire Civil Application why Applicant took more than 5 years for filing the present First Appeal. The reason given by the Applicant in prayer nos. 2, 3 and 4 about poverty and illiteracy cannot be a ground for condonation of delay. Hence, I do not find any substance in the present Civil Application. Hence, following order:

- a. Civil Application stands rejected.
- b. In view thereof, First Appeal (ST) No.4611 of 2015 does not survive. Same stands dismissed as infructuous.
- c. Refund of court fee as per rules.

(K.K.TATED, J.)