

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3327/2018

IN

FIRST APPEAL NO.320/2017

Bhauso D. Banajwade Applicant.

Vs.

Bapu @ Bashir Papa Jamadar & Ors ... Respondents.

Mr.S.G. Thorat, advocaet for applicants.

Mr.Amol Gatane advocate for respondent no.2.

CORAM : K.K.TATED, J.

DATED : 27th June, 2019.

P.C.

Heard learned counsel for parties.

2. By this civil application, applicant/legal heirs of original appellant seeks permission to join them as party in Appeal no.320/2017 because original appellant expired on 30.9.2017.

3. Learned counsel Mr.S.G. Thorat for applicants submit that in the present proceeding, initially original appellant filed Motor Accident Claim Petition No.18 /2010 u/s 166 of the Motor Vehicle Act for compensation. That was allowed

by the trial court on 6.9.2012 holding that claimant is entitled sum of Rs.4,02,000/- with 7.5% interest p.a. Original claimant preferred present first appeal for additional compensation. During pendency of present first appeal, original claimant expired. Hence, they preferred present application..

4. Learned counsel for applicant submits that for want of knowledge about pendency of appeal, there is delay on the part of applicant, to file civil application. He submits that in the interest of justice, this court be pleased to allow the applicant to join them as party in present first appeal by condoning delay.

5. Considering the submissions made by learned counsel for the applicant and the averments made in the civil application following order is passed.

A) Civil application allowed in terms of prayer clause (b) (c) and (d) which reads thus,

b) The delay of 116 days causes to filing the present civil application be please kindly condoned the same.

c)The abatement if any may kindly be set aside.

d)The proposed applicants i.e. the proposed

appellant nos.1-A to 1-C may kindly be brought on record of the aforesaid first appeal as legal heirs and representatives of deceased sole appellant and order to carry out necessary amendment in the record and proceedings of the First appeal no.320/2017 and also in the paperbook.

B) Applicant to carry out appropriate amendment on or before 26.7.2019 failing which civil application shall stand dismissed without referring back to the court.

C) If amendment is carried out within stipulated time, applicant to serve amended copy of first appeal on other side advocate, immediately thereafter.

D) Civil application disposed of accordingly.

(K.K.TATED, J.)

