

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (F) No. 720 OF 2018

IN

F.A.St.No.8067 OF 2017

Dinesh s/o Kisan Awasthi
VS.
Smt.Versha wd/o. Krushnarao & others

Office Notes, Office Memorandum of Coram,
orders
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's

Shri. S. U. Bhuyar, Advocate for the applicant.
Smt. Padma Chandekar, Advocate for respondent No.1

CORAM : Manish Pitale J

DATED : 20.09.2019

This is an application filed on behalf of driver of the offending vehicle seeking condonation of delay of 3015 days in filing the accompanying appeal to challenge judgment and order dated 03.10.2008 passed by the Motor Accident Claims Tribunal, Buldhana.

2. A perusal of the application shows that the only reason given by the applicant/appellant in the present application seeking condonation of delay is that the counsel representing the applicant/appellant did not inform him about the correct status of the matter before the Tribunal. It is claimed that the applicant became aware about the impugned

judgment and order passed by the Tribunal only on 01.10.2015 when a notice was received in recovery proceedings.

3. It is stated that upon becoming aware of the impugned judgment and order, the applicant allegedly contacted his advocate and at that time, he was told that the Tribunal had held against him by the impugned judgment and order.

4. The delay is huge and the explanation given is absolutely feeble and not reasonable at all. It is difficult to believe that the applicant/appellant did not bother to inquire about the status of the case before the Tribunal from his Advocate from the year 2005 when the claim application was filed by the respondent No.1 & 2 before the Tribunal. It is also not believable that after the impugned Judgment and order was passed on 03.10.2008, the applicant/appellant was unaware about the existence of the impugned judgment and order. If at all, the facts of the present case clearly show that the applicant/appellant had not been diligent in making efforts to know the status of the matter before the Tribunal.

5. Even otherwise this court has perused the impugned judgment and order passed by the Tribunal, wherein it has been held that the applicant/appellant who was driver of the offending

vehicle was clearly negligent, as the auto rikshaw overturned resulting in injuries to the victim who died on the spot. The respondent No.1 & 2 (original claimants) are the widow and daughter of the victim. At the time when the claim application was filed before the Tribunal, the respondent No.1 widow was only 21 years old and the applicant No.2 daughter was a mere one year old.

6. In these circumstances, this Court is not inclined to grant the prayer made in the present application. Accordingly, the application is dismissed. No order as to costs.

JUDGE

KOLHE