

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

919 CIVIL APPLICATION NO.3931 OF 2019
IN FAST/5678/2019

KALPANA ASHOK LODHE AND ORS
VERSUS
THE BRANCH MANAGER, THE ORIENTAL INSURANCE CO. LTD.,
AHMEDNAGAR AND ORS

Mr. S. S. Kotkar, Advocate for the applicants
Mr. U. S. Malte, Advocate for respondent No. 1.

CORAM : S. M. GAVHANE, J.
DATED : 04.02.2020

PER COURT :-

. Applicants have filed this application to condone delay of 253 days caused in filing appeal against the judgment and award dated 09/03/2018 passed by the Member, MACT, Newasa in MACP No. 25 of 2016 as according to applicants the compensation awarded is inadequate.

2. Mr. Kotkar, learned counsel for the applicants referring to the grounds mentioned in paragraph No. 4 of the application submitted that the deceased-husband of the applicant was looking after all family responsibilities. After his death applicant No. 1 is looking after the family responsibilities. She is

illiterate. She is not aware about the legal proceedings and as such she was entirely relying upon the advocate representing the applicants. It is submitted that advocate representing the applicants had informed the applicants that as and when certified copy of judgment is ready, he will inform them and said copy was received on 20/10/2018. Thereafter, on 25/10/2018 insurance company deposited amount of compensation and same was withdrawn by the applicants on 13/11/2018 and only then they could file appeal. It is submitted that in the above circumstances delay has been caused in filing the appeal. The said delay is not intentional. It has been caused due to circumstances which are beyond the control of applicants. It is submitted that same may be condoned by allowing the application.

3. Nobody appears for respondent Nos. 2 and 3 though they have been served with the notice of application.

4. Learned counsel appearing for respondent No.1 opposed to grant the application, but there is no material to substantiate the objection.

5. Considering the submissions made by the learned counsel appearing for the applicants and the grounds referred to above, particularly mentioned in paragraph No. 4 of the application, I am of the view that applicants have shown sufficient cause to condone the delay and the same needs to be condoned in view of the decisions of the the Apex Court in the case of *Collector, Land Acquisition, Anantnag Vs. Ms. Katiiji and others reported in AIR 1987 SC 1353* and in the case of *Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy and others reported in (2013) 12 Supreme Court Cases 649* to decide the matter on merits to substantial justice.

6. Therefore, application is allowed in terms of prayer clause (B) and delay is condoned.

7. Appeal be registered. After registering the appeal, it be placed for admission on 18/03/2020.

[S. M. GAVHANE, J.]