

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

16 CIVIL APPLICATION NO.9759 OF 2017
IN FAST/23413/2017

ALKA CHANDRAKANT DEBADWAR @ ALKA DIGAMBARAO BACCHEWAR
VERSUS
BALU JAGGA GAYAKAR AND ORS

Mr. K. M. Nagarkar, Advocate for the applicant
Mr. S. R. Bodade, Advocate for respondent No. 3.

CORAM : S. M. GAVHANE, J.
DATED : 10.02.2020

PER COURT :-

. Applicant/original claimant-injured has filed this application to condone delay of 1177 days caused in filing appeal against the judgment and award dated 12/11/2013 passed by the Exofficio Member of MACT, Nanded in MACP No. 695 of 2003, as according to applicant the compensation awarded by the Tribunal is inadequate.

2. Mr. Nagarkar, learned counsel appearing for the applicant referring to the grounds mentioned in paragraph Nos. 4, 5, 6 and 7 of the application submitted that after obtaining copy of judgment and award the applicant could not arrange for expenses to

file appeal in the High Court due to ill health and therefore, delay has been caused which is unintentional. Learned counsel further submitted that applicant has chances of success in the appeal and that the applicant will not claim interest of period of delay caused in filing appeal in case amount of compensation is enhancement by this Court in the appeal. Thus, it is submitted that delay may be condoned by allowing the application.

3. Respondent No.1 owner of the vehicle is served with the notice, but nobody has appeared for him.

4. Mr. Bodade, learned counsel appearing for respondent No. 3 submitted that he will file Vakaltanama for respondent No. 2 also within two weeks. He opposed to grant the application, but nothing is produced on record to substantiate the objection.

5. Considering the submissions made by the learned counsel appearing for the applicant and the grounds referred to above particularly mentioned paragraph Nos. 4, 5, 6 and 7 of the application that due to illness

applicant could not arrange for expenses to be incurred for filing appeal in the High Court and that the time was also spent in sending the appeal to the applicant for verification at Nanded, I find that applicant has shown sufficient cause to condone the delay. Therefore and as submitted by the learned counsel for the applicant as applicant is not claiming interest of period of delay in case amount of compensation is enhanced, it is just to condone the delay by allowing the application. Therefore, delay is condoned and application is allowed in terms of prayer clause (B) on condition that applicant shall not claim interest of period of delay caused in filing appeal in case compensation is enhanced in the appeal filed by the applicant.

6. Appeal be registered. After registering the appeal, it be placed for admission on 24/03/2020.

[S. M. GAVHANE, J.]