

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**23 CIVIL APPLICATION NO.10749 OF 2019
IN FIRST APPEAL STAMP NO.23675 OF 2019**

**NEHABEGUM SHAIKH SHAIPIK & OTHERS
VERSUS
MOHAMMAD MASIHUDDIN MOHAMMAD YOUNUS SHAIKH &
OTHERS**

...
Mr.Swapnil S.Dargad, Advocate for the
applicants-appellants.
...

**CORAM : V.L.ACHLIYA,J.
DATE : 03.02.2020**

P.C.

1] The applicants have moved this application seeking condonation of 1017 days delay in filing appeal for the reasons set out in detail in the application.

2] Heard learned counsel for the applicants-appellants. The respondent nos.1 to 3 though served absent.

3] In brief, it is the contention of the learned counsel for the applicants that delay caused in filing appeal cannot be said to be deliberate and intentional. It is submitted that the applicant no.1 is a

pardanashin woman. The applicant nos.2 and 3 are the minor children of the deceased prosecuting education. The applicant nos.4 and 5 are the old aged illiterate persons. The advocate representing the applicants not informed in respect of the deduction of 50% of the amount from compensation assessed towards contributory negligence of the deceased. Only after receipt of the amount in the month of July, 2019 when they made enquiry, it was revealed that the Tribunal has deducted the amount to the extent of 50%. After securing legal advise, the applicants have preferred this appeal.

4] On due consideration of the submissions advanced in the light of unchallenged and uncontroverted pleadings made in the application assigning cause for condonation of delay, I am of the view that delay deserves to be condoned. If the delay is condoned, no serious prejudice would cause to the other-side. On the contrary, if the delay is not condoned, there is every likelihood that serious prejudice may cause to the applicants, who have filed application seeking compensation on account of accidental death of husband of applicant no.1 and father

of applicant nos.2 and 3, who are minors. Keeping in view broad principles laid down by the Apex Court in the case of *Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy & others* reported in (2013) 12 SCC 649, I am of the view that delay deserves to be condoned. Accordingly, application is allowed in terms of prayer clause-(ii). Delay condoned.

5] Appeal be registered subject to removal of office objection.

6] Civil Application is disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

DDC