

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

20 CIVIL APPLICATION NO.13323 OF 2017
IN FAST/26994/2017

SADASHIV GANESHRAO SHELKE
VERSUS
HANUMANT BHANUDAS PAWAR AND ORS

Mr. P. S. Agrawal, Advocate for the applicant
Mr. A. S. Usmanpurkar, Advocate for respondent No. 2-
Insurance Company

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

PER COURT :-

. Applicant/ original claimant has filed this application to condone delay of 404 days caused in filing appeal against the judgment and award dated 23/03/2016 passed by the Member, MACT, Parbhani in MACP No. 463 of 2011, as according to applicant compensation awarded by the Tribunal is inadequate.

2. Learned counsel appearing for the applicant referring to the grounds mentioned in paragraph Nos. 2, 3 and 4 of the application submitted that applicant suffered disability in the accident and therefore he has no source of income. Applicant was doing labour work at the time of accident, but due to accident he is jobless.

After the judgment and award, applicant was communicated by the local advocate and applicant was instructed to file appeal in the High Court for enhancement of compensation, but as applicant has no knowledge about legal proceedings being an illiterate delay has been caused in filing the appeal, which is not intentional. It is also submitted that applicant has chances of success in the appeal. Therefore, learned counsel for the applicant has prayed to allow the application and to condone the delay.

3. Nobody is present for respondent No. 1 owner of the vehicle.

4. Learned counsel appearing for respondent No. 2 has opposed to grant the application and submitted that in another appeal arising out of the same accident delay has been condoned by this Court as per order dated 02/07/2018 in Civil Application No. 1820 of 2018 on condition that applicant/appellant in the said appeal will not claim interest, in case compensation is enhanced, for the delayed period and therefore necessary order may be passed.

5. Considering the submissions made by the learned counsel appearing for applicant and respondent No. 2 and particularly the submissions of the learned counsel appearing for the applicant referring to the grounds mentioned in paragraph Nos. 2, 3 and 4 of the application, I am of the view that applicant has shown sufficient cause to condone the delay and the same needs to be condoned on condition that applicant shall not claim interest of period of delay caused in filing the appeal in case compensation is enhanced in the appeal filed by the applicant. 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 of 404 days caused in filing the appeal in case amount of compensation is enhanced in appeal.

6. Appeal be registered.

[S. M. GAVHANE, J.]