

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

926 CIVIL APPLICATION NO.15405 OF 2016
IN X-APLST/33284/2016

CHHAYA ASHOK PATIL AND ORS.
VERSUS
THE NATIONAL INSURANCE CO. LTD. AND ORS

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Mr.M.M. Bhokarikar, Advocate for applicants.
Mr.V.N. Upadhye, Advocate for respondent no.1.
Mr.R.V. Gore, Advocate for respondent nos.2
and 3.

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CORAM: V.L. ACHLIYA,J.
DATE : 15.01.2020

ORAL ORDER:

The applicants-claimants have preferred this application seeking condonation of 868 days delay in filing Cross appeal for the reasons set out in detail in the application.

2. Heard learned counsel for the applicants-appellants and the Advocates representing the respondents.

3. In brief, it is the contention of learned counsel for the applicants that the delay caused in filing appeal was mainly due to poor financial condition of the applicants. Only after taking legal advice

and arranging the funds, they preferred appeal. It is submitted that deceased was sole earning member in their family. Due to the accidental death, the applicants are facing great difficulties to maintain themselves. The compensation awarded by the Tribunal is too meagre and not in accordance with law. They have good case to succeed.

4. On the other hand, learned counsel for the respondents opposed the application with contention that the reasons assigned are false and concocted. The applicants have received the compensation as awarded by the Tribunal. In that view, the contention of the applicants that they were unable to meet the expenditure for filing appeal cannot be accepted. It is further contended that for the fault on the part of the applicants in filing appeal, the respondents should not suffer and in the event the application is allowed and delay condoned, then the applicants be not allowed to claim interest for the period of delay caused in filing appeal.

5. On due consideration of 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, the delay deserves to be condoned. The applicants have filed the Claim Petition seeking enhancement of the compensation. The applicant nos.1 and 4 are women doing the household work. The applicant nos.2 and 3 are the minor children of the deceased. The deceased claims to be sole earning member of the family. In that view, the reasons assigned seeking condonation of delay deserves to be accepted.

6. Apart from this, the delay caused in filing appeal would not cause serious prejudice to the respondents. Respondent No.1 – insurance company has filed appeal challenging the award. So far as prejudice to be caused on account of delay in filing appeal, the delay can be condoned with condition that the applicants would not be entitle for the interest of the period for which delay has been caused in filing appeal. I am therefore inclined to allow the application. Accordingly, the application is allowed in terms of prayer clause (b), subject to condition that the applicants shall not entitle for the interest of 868

days in the event the award is modified and the amount of compensation is enhanced. Cross-Appeal be registered subject to removal of office objection.

7. Civil Application is disposed of in above terms.

[V.L. ACHLIYA]
JUDGE

SGA