

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1628 OF 2019
IN
FIRST APPEAL ST. NO. 36209 OF 2018

Shri. Dhanaji Bhauso Patil & Ors. ...Applicants

Versus

Mr.Jaywant Yashwant Patil & Anr. ...Respondents

.....
Mr.Akshay Kulkarni for the Applicants.
Mr.Nikhil Mehta i/b. KMC Legal Venture for Respondent No.2.
.....

CORAM: V.G.BISHT, J.
DATE: 29TH JANUARY, 2020

PC:-

1. By way of proposed Appeal, the applicants / original appellants are challenging the judgment and award dated 27th July, 2011 passed by the learned Chairman, Motor Accident Claims Tribunal, Kolhapur in M.A.C.P. No. 7 of 2010. However, there is delay of 7 years and 54 days in preferring the First Appeal.

2. Mr.Kulkarni, learned Counsel for the applicants, submits that the applicants are residing in the remote areas and being poor, they were not able to generate funds for preferring the Appeal in time. The applicants have lost the sole earning member of their

family. He further submits that applicant No.1 is old person and applicant No.3 is taking education and he is the only earning member of the family. Since the Claim Petition came to be dismissed by the learned Chairman, M.A.C.T., Kolhapur, it is necessary, in the interest of justice, that they be given an opportunity to contest the Appeal.

3. Mr.Mehta, learned Counsel for respondent No.2, on the other hand, vehemently opposes the submissions by contending that there is huge delay in preferring the Appeal and moreover, the same has not been satisfactorily explained. In such circumstances, the Application is liable to be dismissed, argued learned Counsel.

4. It appears that Claim Petition No. 7 of 2010 came to be dismissed by the learned Chairman. Having regards to the fact that the applicants are from the remote areas of village and the fact that their Claim Petition came to be dismissed by the learned Chairman, it is necessary, in the interest of justice, that they be given an opportunity to contest the impugned judgment of rejection of Claim Petition. No prejudice will be caused to the respondents inasmuch as the insurance company will also get an

opportunity to support the impugned judgment. However, since the delay is enormous, it is necessary that the delay should be condoned subject to payment of costs of Rs. 5,000/-. The applicants to deposit Rs. 5,000/- with the Juvenile Justice Fund. On depositing the costs, the Appeal be registered.

5. Civil Application is disposed of accordingly.

(V.G.BISHT, J.)