

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

924 CIVIL APPLICATION NO.2427 OF 2015
IN FAST/1481/2015

SALIM KASAM TAMBOLI
VERSUS
SUHAS SHRIDHAR RANDHE AND ANOTHER

.....
Advocate for Applicant : Mr. Shaikh Mazhar A. Jahagirdar
Advocate for Respondent No.1 : Mr. Dixit Satyajeet S
.....

CORAM : V. K. JADHAV, J.
DATED : 31st AUGUST, 2021

PER COURT:-

1. Heard learned counsel for the applicant and learned counsel for respondent No.1.
2. There is delay of 715 days caused in filing appeal preferred against the judgment and award dated 20.10.2012 passed by M.A.C.T. Ahmednagar in M.A.C.P. No. 100 of 2005. The applicant is the original claimant. The applicant had preferred claim petition on account of personal injury sustained by him in the motor vehicular accident.
3. Learned counsel for the applicant submits that due to financial constraints, the applicant could not prefer appeal within limitation. Further, the applicant was almost bedridden and thus delay is caused. Learned counsel submits that the delay is not intentional one as the applicant was prevented from sufficient cause in

preferring appeal within limitation.

4. Learned counsel appearing for respondent No.1 has strongly resisted the application on the ground that the applicant has not satisfactorily explained the delay. None appears for respondent No.2 insurer though duly served.

5. It appears that the applicant original claimant has sustained permanent disablement to the extent of 40%. It further appears that though the disablement is to the extent of 40% as contended by the applicant, the same has resulted into loss of earning capacity to the extent of 100%. Thus, due to financial constraints and also because of further consequences of the said disablement, the applicant could not prefer appeal within limitation. Thus, there is no intentional delay caused in preferring the appeal.

6. In view of above and for the reasons stated in the civil application, civil application is allowed in terms of prayer clause "B" and disposed of.

(V. K. JADHAV, J.)

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