

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 CIVIL APPLICATION NO.6043 OF 2014
IN FAST/9152/2014

SANTOSH IRBHAN SURYAWANSHI
VERSUS
MUNARAM HARJI RAMJI AND ANOTHER

.....
Advocate for Applicant : Mr. Patil Shrikant S.
Advocate for Respondent 2 : Mr. Deshpande Dhananjay P.
.....

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

PER COURT:-

1. Heard learned counsel for the applicant and learned counsel for the respondent insurer.
2. There is delay of 997 days caused in filing appeal preferred against the judgment and award dated 22.03.2011 passed by M.A.C.T. Dhule in M.A.C.P. No. 415 of 2006.
3. Learned counsel for the applicant has pointed out that the applicant is the original claimant and he had preferred the said claim petition for sustaining personal injury in the motor vehicular accident. Learned counsel submits that the applicant has suffered 85% permanent disability which has resulted into loss of earning capacity to the extent of 100%. Learned counsel submits that the applicant has also annexed a certificate to that effect at Exh.A. Learned counsel submits that the applicant is practically bedridden. He has

also spent lot of money for his treatment. Thus, due to financial constraints and also because of disablement sustained by him, the applicant could not approach this Court by preferring an appeal within time. Learned counsel submits that the delay is not intentional one and the applicant was prevented from sufficient cause to prefer appeal within limitation.

4. Learned counsel appearing for respondent insurer has strongly resisted the application. Learned counsel submits that the Tribunal has passed award on 22.3.2011 and the applicant for the first time approached to his counsel in the month of December, 2014 for preferring an appeal. Learned counsel submits that the applicant has not explained the delay satisfactorily. Learned counsel submits that if this court consider to condone the delay in that case, the applicant should not get interest for the period of which delay is sought to be condoned, in case his appeal is allowed.

5. I have carefully perused the contents of application and annexure thereto. On perusal of certificate Exh.A, it appears that the applicant has sustained permanent disablement to the extent of 85% and considering the nature of disablement, it appears that the applicant was almost bedridden. It is but obvious that the applicant has to incur huge expenses for medical treatment even after his claim was partly allowed. The delay in preferring an appeal thus appears to be not intentional. The applicant was prevented from

sufficient cause to prefer an appeal within limitation. I am thus inclined to condone the delay.

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

7. So far as the interest part for the period of which delay is condoned is concerned, it is open for the respondent insurer to agitate the said ground before this Court during the course of hearing of main appeal.

(V. K. JADHAV, J.)

rlj/