

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

906 CIVIL APPLICATION NO.9026 OF 2009  
IN FIRST APPEAL [STAMP] NO.16425 OF 2009

GAYABAI NARAYAN MOHITE & OTHERS  
VERSUS  
SANJAY BABURAO WAGHMARE & OTHERS

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Mrs.R.V.Ghule, Advocate for the applicants.

Mr.V.B.Deshmukh, Advocate holding for Mr.M.B.Kolpe,  
Advocate for respondent no.1

Mr.Mohit R. Deshmukh, Advocate for respondent no.1.

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**CORAM : V. K. JADHAV, J.**

**DATED : 01.09.2021**

PER COURT :

1] Heard learned counsel for the applicants, learned counsel for respondent no.1 and learned counsel for respondent no.3 – Insurer.

2] The applicants are the original claimants in MACP No.75 of 2004. Being aggrieved by the Judgment and Award passed by the Tribunal, the applicants have preferred this Appeal for enhancement of compensation, which is delayed by 1161 days.

3] Learned counsel for the applicants submits that bread earner of the family died in the vehicular accident. Applicant no.1 is the widow; applicant no.2 is her minor

daughter and applicant nos.3 and 4 are her sons. Learned counsel submits that due to financial constraint, applicants could not file appeal within a period of limitation. Learned counsel for the applicants, on instructions, submits that the applicants are also ready to forgo the interest for the period of delay i.e. 1161 days.

4] Learned counsel for the respondent no.3 - Insurer submits that there is an inordinate delay in preferring the appeal against the judgment and award passed by the Tribunal and the delay has not been satisfactorily explained.

5] The applicants are the original claimants. It appears that the bread earner of the family died in the vehicular accident and thus the applicants have preferred MACP No.75/2004 before the Tribunal. Being aggrieved by the Judgment and Award passed by the Tribunal, the applicants have preferred appeal for enhancement of compensation, however, the same is delayed by 1161 days. It is submitted that delay occurred due to financial constraint. The applicants are also ready to forgo the interest for the period of delay i.e. 1161 days.

6] In view of above and for the reasons stated in the application, the application is allowed in terms of prayer clause-B subject to the condition that the applicants shall not be entitled to claim the interest for the period of delay i.e. 1161

days in case the appeal preferred by the applicants is allowed for enhancement of compensation.

7] Civil Application is disposed of accordingly.

**[V. K. JADHAV, J.]**

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