

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

4 CIVIL APPLICATION NO.10299 OF 2018
IN FAST/19551/2016

SAU. JYOTI SURESH DESHMUKH AND ANOTHER
VERSUS
THE DEPO MANAGER, M.S.R.T.C. NASHIK DIVISION AND ANOTHER

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Advocate for Applicants : Mr. Pawan K. Lakhotiya.

Advocate for Respondent No.1: Ms. Ranjana D. Reddy.

Advocate for Respondent No.2: Mr. Rahul R. Sancheti.

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CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 13th December, 2021.

P.C.:

. It is an application for condonation of delay moved by the applicants.

2 Heard Mr. Lakhotiya, learned counsel for applicants, Ms. Reddy, learned counsel for respondent No.1 and Mr. Sancheti, learned counsel for respondent No.2.

3 According to Mr. Lakhotiya, there was a delay of 120 days in preferring the first appeal on account of medical treatment of applicant No.1. There was no intentional delay on the part of the appellants to prefer an appeal. He submitted that this appeal is arising out of accident claim. The appellants are seeking enhancement of compensation. The delay may be condoned.

4 Ms. Reddy, learned counsel for respondent No.1 and Mr.Sancheti, learned counsel for respondent No.2 strongly opposed to condone the delay. Both of them submitted that the delay of 120 days is not satisfactorily explained by the applicants. Ms. Reddy, learned counsel for respondent No.1 points out one order passed by my learned brother (Honourable Shri Justice R. G. Avachat) in Civil Application No.9521 of 2017 in First Appeal Stamp No.19479 of 2017 dated 23rd November, 2021. She submits that if delay is condoned, the applicants shall not be entitled for component of interest for the delayed period. She seeks leave to place on record copy of that order.

5 Leave granted. The copy of order dated 23rd November, 2021 passed in Civil Application No.9521 of 2017 is taken on record and marked as 'X' for identification.

6 The proposed appeal is for enhancement of compensation arising out of motor accident claim. The applicants have assigned the reasons for condonation of delay in paragraphs 4 and 5. I can understand that reason, but it seems that though appeal was filed alongwith the application for condonation of delay in the year 2016, circulation was not taken. As such, the considerable delay has occurred. Certainly, the applicants shall not be entitled for the component of interest for the delayed period while condoning the delay

i.e. from the date of filing of appeal to the date of this order. Hence, the following order:

ORDER

- I. The application is hereby allowed in terms of prayer clause (B).
- II. The applicants shall furnish undertaking with the Registrar (Judicial) of this Court stating that they shall not claim the component of interest in respect of the delayed period i.e. from the date of filing of appeal to the date of this order.
- III. The Registry to make scrutiny of the appeal as per the procedure and thereafter, it be numbered and place before the Court for admission.

[SHRIKANT D. KULKARNI, J.]

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