

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 760 OF 2016

IN

FIRST APPEAL (ST) No. 6971OF 2015

Hemant Electrics

...Applicant /
Appellant

Vs.

Mrs. Vandana Vikas Kaldate and Ors.

...Respondents

Mr. Amol Dhumal h/f. Mr. Umesh Kurund for Applicant/Appellant

CORAM : MADHAV J. JAMDAR, JJ.

DATE : SEPTEMBER 18, 2021

P.C. :

1. This civil application is taken out by the Applicant, who is Original Opponent No.3 seeking condonation of delay of 87 days in filing the appeal. Although Respondent Nos.1 and 2 are duly served, none appears for them.

2. Heard Mr. Amol Dhulam instructed by Mr. Umesh Kurund, learned Advocate for the Applicant. He submitted that the learned Advocate of the Trial Court has advised the Applicant not to file appeal as Opponent Nos. 1 and 2 i.e. Maharashtra State Electricity Distribution Company Ltd. and the Junior Engineer MSED are going to file appeal. Thereafter, the Advocate of the Applicant at Mumbai advised him that even though the appeal is filed by Original Opponent Nos.1 and 2, the independent appeal of the Applicant is also necessary and therefore, there is some delay in filing the appeal.

3. Although the Respondent Nos.1 to 4 are duly served, none of them are appearing in the matter. Therefore, the contention raised in the civil application have remained uncontroverted and, therefore, the civil application for condonation of delay deserves to be allowed.

4. However, it is to be noted that the Applicant is a Government Licensed Electrical Contractor and engaged service of deceased Vikas Kaldate for repairing the transformer (DP) installed in the field of one Shankar Shivadas Zine. While repairing the said transformer, deceased Vikas Kaldate sustained electric shock and as a result of the same, he died during the course of employment.

5. The Learned Commissioner for Workmens' Compensation and Judge, Labour Court, Solapur has found that the deceased Vikas Kaldate was working with Applicant as Junior Technician from 16th August, 2009. Further finding is recorded that deceased Vikas Kaldate was working through contractor i.e. Appellant and the contractor was appointed by Respondent Nos.1 and 2 i.e. Maharashtra State Electricity Distribution Company Ltd. and the Junior Engineer, MSED. The Court has awarded compensation of Rs.5,91,180/-.

6. The Respondents although served are not appearing. It is clear that deceased was working as electrician and he is survived by widow and minor children aged 11 years and 7 years when the proceedings were filed before the Labour Court, Solapur.

The learned Advocate of the Applicant in this Civil Application fairly stated that he has no instructions whether any amount is received by Respondent Nos.1 to 3. It is apparent that they are suffering from financial difficulties. Condonation of delay will result in some hardship to them.

7. Thus the delay is condoned on the specific condition that the Applicant deposits before the Commissioner for Workmens' Compensation, Labour Court, Solapur Rs.25,000/- within a period of four weeks. Respondent Nos. 1 to 3 are at liberty to withdraw the said amount. The Applicant's Advocate to serve copy of this order on Respondent Nos.1 to 3 within three weeks. The Applicant to file affidavit within six weeks about deposit of the said amount and service of this order on Respondent Nos.1 to 3 and thereafter only office to register the First Appeal (St) No. 6971 of 2015, subject to other necessary compliances.

8. Civil Application is disposed on above terms.

(MADHAV J. JAMDAR, J.)

VA Tikam