

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.3355 OF 2020
IN FAST/8036/2020

NILESH MANIKRAO KALE
VS
ROHIDAS MAMTU RATHOD
AND ORS

...

Mrs. Asha D. Rakh, Advocate for the Applicant.
Mr. Pramod F. Patni, Advocate for Respondent Nos.1
and 2.
Mr. Rahul R. Suryawanshi h/f Mr. S. R. Sapkal,
Advocates for Respondent No.2.

...

WITH
CIVIL APPLICATION NO.3359 OF 2020
IN FAST/8156/2020

WITH
CIVIL APPLICATION NO.3357 OF 2020
IN FAST/8160/2020

CORAM : S. G. DIGE, J.
DATED : 14th OCTOBER, 2022.

PER COURT:-

1. Heard learned counsel for the applicant
and learned counsel for the respondents.

2. The learned counsel for the applicant
submits that, the notice was not properly served to
the applicant, when the matter was tried before the
Tribunal. The applicant has sold the offending
truck long back to the other person, but that
person was not made party before the Tribunal. As
proper service was not done on the applicant, the
applicant could not remain present before the
Tribunal, but the Award is passed against the
applicant, which is under challenge by way of First

Appeals. Hence, requested to allow the applications.

3. It is contention of the learned counsel for respondent nos.1 and 2 that, there are four matters out of same accidents, two death and two injury. There is around 12 years delay for filing the Appeals, which is inordinate delay. The reasons given by the applicant for condoning the delay is not sufficient. Hence, requested to dismiss the applications.

4. I have heard all the learned counsels.

5. The Tribunal has fastened the liability on the applicant to pay compensation. The matter was proceeded ex-parte against the applicant. The applicant did not get chance to put fourth his case before the Tribunal. Considering the principles of natural justice, it is necessary to give opportunity to the applicant to put fourth his case. The applicant is claiming that the he had sold the offending truck long back to the other person. The applicant came to know about the order passed against him after filing the execution proceeding against him. These are sufficient reasons to condone the delay. If heavy cost is imposed on the applicant, it would meet the ends of justice. Hence, I pass the following order:

ORDER

a. The applications for delay condonation are allowed.

- b. The delay for filing the First Appeals is condoned.
- c. Applicant to pay Rs.25,000/- alongwith accrued interest from January 2020.
- d. Appeals be registered subject to removal of office objections, if any.
- e. Civil Applications are disposed of.

(S. G. DIGE)
JUDGE