

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

908 CIVIL APPLICATION NO.13554 OF 2015
IN FA/870/2009

DEELIP IRRAPPA PANCHAL
VERSUS
M S R T C LATUR

...
Advocate for Applicant : Mr. Vinod D Godbharle
Advocate for Respondent : Mrs. R.D. Reddy
...

**CORAM : S. G. DIGE, J.
DATE : 01.07.2022**

PER COURT :-

Heard learned counsel for the applicant and learned counsel for respondent.

2. Learned counsel for the applicant submits that appellant could not deposit Bhatta within stipulated period. Hence appeal of the appellant is dismissed.

3. Learned counsel for the applicant further submits that Advocate of the applicant was out of station during the period hence Bhatta remained to be paid. Applicant is resident of village Vilaspur Tq Anand District Beedar Karnataka. The appeal of the applicant was registered hence applicant was in

belief that the appeal is pending for admission.

4. Appellant had engaged Advocate to represent him before this Court. The Advocate who was representing the applicant/appellant was not aware about the contact number of the applicant hence Bhatta could not be paid during the stipulated period. Learned counsel further submits that applicant has challenged the order passed by the learned Motor Accident Claim Tribunal Latur for enhancement of compensation. The applicant was got injured in the said accident and his both legs were fractured. There is 47% disability caused to the applicant in the said accident. Learned tribunal has awarded only medical bills and has not considered disability of the applicant. If application is not allowed, it will cause grave injustice to the applicant. Hence requested to condone the delay for filing the application and recall the order dated 18th June 2009.

5. Learned counsel for the respondent strongly objected for allowing the application on the ground that there is huge delay for filing application. The applicant was given sufficient opportunity to pay the Bhatta in spite of that applicant fails to paid Bhatta. Learned counsel further submits that after

filing this application, applicant did not circulate the matter for early hearing. Learned counsel further submits that if this Court comes to the conclusion that application needs to be allowed then applicant shall not claim interest from the date of non removing objection i.e. 18th June 2009 to date of receipt of the notice i.e. 13th July 2017 it is the date of receipt of the notice by the respondent, thereafter applicant has not circulated matter for the hearing.

6. Considering submission of both the learned counsel as well as applicant is resident of Karnataka, the counsel who was representing the applicant before this Court was not aware about the contact number of applicant hence he could not pay bhatta within stipulated period. Applicant has got 47% disability but as per contention of applicant it was not considered by the learned Tribunal hence in the interest of justice it is necessary to give opportunity to the applicant to pursue his appeal.

7. Hence I pass the following order

ORDER

- (I) Application is allowed.
- (II) The delay for filing of this application is condoned.
- (iii) Applicant shall not claim the interest for the period i.e.

dated 18th June, 2009 to 13th July 2017.

- (IV) The order passed by the learned Registrar Judicial dated 17th June 2009 is quashed and set aside.
- (V) Applicant shall pay the Bhatta and remove office objections within three weeks.

**(S.G. DIGE,)
JUDGE**

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