

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

940 CIVIL APPLICATION NO.13946 OF 2018
IN FAST/32135/2018

JIJABAI RAMDAS MALI AND ORS
VERSUS
GORAKH DAGADU NAIKWADI AND ANR

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Advocate for Applicants :Mr. Bhide Vinod Y

CORAM : Y. G. KHOBRAGADE, J.

DATE : 15TH NOVEMBER, 2022

ORDER:

1. Heard Mr. Bhide, the learned counsel for the applicants.
2. Though respondent No.1 served with substitute service by paper publication, he failed to remain present. Notice of respondent No.2 was sent by speed post and from track consignment report of the postal authority placed on record, it appears that, on 15.10.2020 notice was dispatched by postal authority and 'Item Delivery Confirmed' on 19.10.2020. Therefore, there is presumption that, the respondent No.2- Insurance Company duly served with notice but failed to appear in the matter.
3. Learned counsel for the applicant submitted that on 07.02.2018, the learned Member, Motor Accident Claims Tribunal, Sangamner passed judgment and order and granted meager amount of

compensation to the tune of Rs.4,25,664/- without considering proper multiplier and income of the deceased as well as very less future prospects is granted. Though the applicants obtained certified copy of the judgment and award, could not file appeal within prescribed period because of poor financial condition. The cause of delay remained uncontested on behalf of the non applicants.

4. Therefore, considering the reasons assigned in the present application as well as nature of claim, it would be just and proper to condone the delay of 160 days caused in lodging the appeal. Accordingly, I am inclined to grant the present application and proceed to pass following order:

O R D E R

- i. Civil application is hereby allowed
- ii. The delay of 160 days caused in filing appeal is hereby condoned.
- iii. Office to register the appeal and place before the Court for further action.

(Y. G. KHOBRAGADE, J.)

JPChavan