

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 1459 OF 2019 IN
FIRST APPEAL ST. NO 38814 OF 2018

Bharatbai Balaji Zokdare & others

Applicants

Versus

Kazi Abdul Wahid Saifuddin & another

Respondents

Mr. B. N. Gadegaonkar, Advocate for the applicants.

Mr. M. R. Deshmukh, Advocate for respondent No. 2.

CORAM : R. M. JOSHI, J.

DATE : 9th DECEMBER, 2022.

PER COURT :

1. This application is filed by original claimants in MACP No. 380/2013 seeking condonation of delay of 209 days in filing first appeal against the judgment and award dated 2nd February, 2018.

2. According to applicants, appeal could not be filed in time as time was taken for contacting advocate and seeking advice. According to learned counsel for the applicants, the delay caused is not deliberate and interest of justice requires condonation thereof.

3. Learned counsel for respondent No. 2 opposed the said contention and objected for allowing the application.

4. The claimants in motor accident case are entitled to seek just compensation. If a claimant is aggrieved by any award and judgment passed by the Tribunal and seeks just compensation by enhancement thereof, he cannot be denied the said right on technicalities.

5. Perusal of the application shows that delay caused in preferring the appeal is not intentional. Moreover, applicant could not have gained anything by not preferring the appeal in time. Hence, delay caused in preferring appeal deserves to be condoned. However, appellants cannot be allowed to take advantage of the delay and respondents cannot be burdened with liability to pay interest on enhanced amount for the said period. In the circumstances, equity can be balanced by denying any amount of interest to the claimants on enhanced compensation, if any, till the date of filing of the appeal. Hence the following order :-

ORDER

- i) Application stands allowed.

ii) Delay of 209 days caused in preferring appeal stands condoned.

iii) Appeal be registered.

iv) Applicants are not entitled to receive any amount of interest on enhanced compensation upto the date of filing of appeal, if they succeed in the appeal.

v) Civil application stands disposed of.

(R. M. JOSHI)
Judge

dyb