

Chaitali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2398 OF 2022

IN

FIRST APPEAL NO. 733 OF 2002

Smt. Babai Madhav Kshirsagar Alias Babanbai ...Applicants
Madhav Kshirsagar since deceased through her
legal heirs and representatives- 1a. Usha
Shyam Bansode & Ors.

Versus

General Manager, Pune Municipal Transport, ...Respondent/
Swargate, Pune. Opponent

Ms. Rukmini Khairnar i/b Mr. P. N. Joshi for the Applicants.
Madhavi T. for Respondent.

CORAM : R.I. CHAGLA J
DATE : 29TH NOVEMBER, 2022

ORDER :

1. Heard learned Counsel for the parties.
2. By this Interim Application, the Applicants have applied for bringing the legal heirs and representatives of the deceased Original Applicant No.1 being Applicant Nos.1-A to 1-E as shown in the cause title of the Interim Application on record in the First Appeal and for

the abatement of the First Appeal by condoning the delay be set aside.

3. The Original Applicant Nos. 1 and 2 are husband and wife and both have expired after impugned judgment and award dated 21st June 2001 passed by the Member of the Motor Accident Claims Tribunal, Pune, in M.A.C.P No. 737 of 1996.

4. The Original Applicant Nos.1 and 2 passed away during pendency of the First Appeal which challenges the impugned judgment and award dated 21st June 2001. The Original Applicant No.1 expired on 28th June 2018. The Applicant Nos.1-A to 1-E are only legal heirs and representatives of Original Applicant No.1. The Original Applicant No.2 expired on 1st June 2019 and the above mentioned legal heirs and representatives of Original Applicant No.1 are also the legal heirs of Applicant No.2, Original Applicant Nos.1 and 2 being husband and wife.

5. The Applicants states that they are illiterate villagers who were not aware of the legal procedure for bringing legal heirs and representatives of the deceased Original Applicants on record. The Applicants upon addressing a letter to the Advocates as to the listing

of the matter in or about December 2019, asked their local Advocate if they needed to intimate the death of the Original Applicant Nos.1 and 2. The Applicants were the informed the procedure of bringing the legal heir on record. Thereafter the Applicants took necessary steps to collect the names and addresses of the legal heirs and representatives as well as collect the death extracts. There was delay in filing the present Interim Application, in view of the Applicant collecting the documents relating to the details of death and extracts thereof, and which was sent by the Applicants to their Advocate in Mumbai in March 2022.

6. Accordingly, the present Interim Application has been filed for setting aside the abatement of the First Appeal as well as bringing the legal heirs of Original Applicant Nos.1 and 2 on record.

7. There is no objection to the relief sought for in the Interim Application being granted.

8. In view of the averments in the Interim Application as aforementioned, a case has been made out for condoning the delay in filing the Interim Application as well as setting aside the abatement of the First Appeal and for bring the legal heirs of Original Applicant

Nos.1 and 2 on record. Hence, the following order is passed :

- i) The delay in filing the Interim Application is condoned.
- ii) The abatement of the First Appeal is set aside.
- iii) The Applicant Nos.1-A to 1-E are permitted to be brought on record in place of Original Applicant Nos.1 and 2 who have expired and to be shown in the cause title of the First Appeal as well as consequential amendments.
- iv) The amendment shall be carried out with a period of two weeks from the date of this order.
- v) Interim Application is accordingly disposed of.

[R.I. CHAGLA J.]