

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4577 OF 2013
IN
REJECTED CASE NO.235 OF 2013

Arun Eknath Wagh

...Applicant

Versus

Deokisan Tulsidas Bhatia & Anr.

...Respondents

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KAMBLE

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Mr.Ashwin Pimpale h/f Mr.Rameshwar Gite, for the Applicant.

CORAM : S.G. DIGE, J.

DATE : 20 DECEMBER 2022

P.C:-

. By this Application, the Applicant is prying for restoration of the First Appeal which is dismissed by order of this Court dated 29 October 2010 as the Applicant did not take steps for effecting service to the unserved Respondents.

2. The learned counsel for the Applicant submits that the learned counsel did not notice conditional order passed by this Court dated 29 October 2010, hence, he could not take steps within stipulated time. It was fault of the Advocate and not the litigant. By way of the Appeal the Applicant is seeking enhancement of the compensation. In the accident the Applicant has suffered 60% permanent disability but did not get adequate

compensation. If the Appeal is not restored the Applicant would suffer irreparable loss. Hence, requested to allow the Application.

3. Considering the submissions the learned counsel for the Applicant as well as the Applicant seeking enhancement of compensation on the ground that he has not been awarded adequate compensation by the Tribunal. Hence, I pass following order.

ORDER

- (i) The Application is allowed.
- (ii) The delay caused for filing this Application is condoned.
- (iii) The order dated 29 October 2010 is recalled.
- (iv) The Appeal is restored.
- (v) The Applicant to take steps for effecting service to the unserved Respondents within four weeks.
- (vi) The Applicant shall not entitled for the interest on enhanced compensation amount from the period of 29 October 2010 till date if he succeeds in the Appeal.
- (vii) The Application is disposed of.

(S.G. DIGE, J.)