

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL (ST) NO. 20806 OF 2022

Bombay Electric Supply and
Transport Undertaking

...Appellant

vs.

Umesh Sadanand Khandekar Thr. Constitute
Attorney Mr. Sadanand Mahadev Khandekar

...Respondent

**ALONGWITH
INTERIM APPLICATION NO. 17648 OF 2022
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IN
FIRST APPEAL (ST) NO. 20806 OF 2022**

Bombay Electric Supply and
Transport Undertaking

...Appellant

vs.

Umesh Sadanand Khandekar

...Respondent

Mr. Bhavesh Wadhwani i/by M. V. Kini and Co. - Advocate for the
Appellant

Varsha Chavan - Advocate for the Respondent

CORAM : S. M. MODAK, J.

DATE : 24th AUGUST, 2022

P. C. :-

INTERIM APPLICATION NO. 17648 OF 2022

1. Heard learned Advocate for the Appellant. There is delay of 14 days in preferring an appeal. In pursuance to the Caveat there is appearance on behalf of Respondent.

2. It is submitted that neither all the copies were served on the Respondent nor his counsel. According to the Appellant they made attempt but could not served.

3. Learned Advocate for the Respondents opposed the prayer for condonation of delay for the reason that the present Appellants have contested the proceedings and they were aware about the judgment against them. As against this it is submitted that the Appellant took some time to complete office procedure and that is how there is delay.

4. this court is satisfied with the explanation offered and that find place in para no. 7 of the application, in view of that the application is allowed in terms of prayer clause 'a'.

5. Interim Application No. 17648 of 2022 is disposed of.

FIRST APPEAL (ST) NO. 20806 OF 2022

6. The Motor Accident Claim Mumbai as per judgment dated 22/04/2022 directed the Appellant to pay compensation of Rs. 1,04,95,099/-.

7. The Respondent has appeared as per Caveat. The Appellant raised number of grievances including the contributory negligence on behalf of driver of motor cycle. Due to accident, he suffered permanent disability and he deposed through his father. Whereas Appellant examined the driver of the offending bus, the Tribunal after appreciating the evidence

concluded that it is driver of the bus who was negligent. That discussion find place in respect of issue nos. 1 and 3. It is challenged on behalf of the Appellant so also there is challenge to quantum of compensation.

8. Learned Advocate for the Respondent expressed desire to file compilation of documents, in view of that matter be kept for admission on 04/10/2022. The Respondent is at liberty to file compilation of document and to serve the Appellant in advance.

INTERIM APPLICATION NO. 17649 OF 2022

9. Heard learned Advocate for the Appellant and Respondent.

10. There is request to grant stay to the execution of decree and execution is kept today.

11. The tribunal has dealt with the issue of negligence on the part of BEST driver and the grievance of the contributory negligence of the injured by common finding.

12. Learned Advocate for the Appellant submitted that he is not having all the documents. He submitted that he will take date before the executing Court, in view of that matter be kept on 04/10/2022.

[S. M. MODAK, J.]