

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAF) NO. 98 / 2022 IN
FIRST APPEAL ST. NO. 14817/2021

Ramrao s/o Mahadeorao (Madhavrao) Jamdhade **Versus** Smt. Shashikala w/o Haridas Rangari and anothers.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms Mrunal Naik, Advocate for the applicant.
Shri H.A. Khedikar, Advocate for respondent No.1.

CORAM : ABHAY AHUJA, J.
DATED : 10/10/2022

1. Heard.
2. By this application, the applicant is seeking condonation of delay of 1180 days in preferring an appeal against the judgment and award dated 18/10/2016 passed by the M.A.C.T. Bhandara in M.A.C.P. no. 38/2013.
3. Shri H.A. Khedikar, learned Advocate for respondent No.1 has raised his formal objection to the application.
4. Respondents No. 2 and 3 though served have not appeared.
5. Ms Mrunal Naik, learned Advocate for the applicant would submit that there were three claim petitions that were filed in respect of the same accident and the same policy. In respect of two claim petitions, the

Insurance Company had been made liable to pay and the decrees had been satisfied. However, in respect of one claim petition, the Tribunal has passed an order of pay and recover. Hence, this appeal is sought to be preferred.

6. Ms Naik draws attention of this Court to paragraphs 10 to 13 of the application to explain the delay.

7. The learned Advocate would submit that initially the appellant had not received any communication from his advocate regarding the award and he was assured that there was no specific defence of the Insurance Company.

8. It is submitted that since 2015, the daughter of the appellant was suffering from Kidney disease and was advised Kidney Transplant and was also required to undergo dialysis thrice a week. However, as stated in paragraph 11 despite all efforts, his daughter died on 29/07/2020 at Aurangabad.

9. It is submitted that the wife of the appellant was also suffering from illness and she was also under medical supervision since 2016 and finally died on 30/07/2018 at Aurangabad, before the death of the daughter.

10. The learned Advocate draws attention to paragraph 12 of the application and submits that the

appellant was looking after the treatment of his wife as well as daughter and was not in touch with his advocate at Bhandara which is at a distance of 550 Kms.

11. From the month of March 2020, due to Covid-2019 Pandemic situation, no steps could be taken. In August, 2021, he came to know that the Insurance Company had filed the execution proceedings before the M.A.C.T. Bhandara, when he enquired with his advocate about the same and was informed that an award was passed in favour of the claimant, but he was not informed about the order of pay and recover award. Thereafter, he obtained the certified copies, prepared this appeal and filed the same on 28/10/2021.

12. Having heard learned Advocate and having perused the application, this Court is of the view that sufficient cause has been made out for condoning the delay of 1180 days. Let the delay of 1180 days be condoned.

13. The Registry is directed to register the First Appeal within a period of two weeks.

Civil application stands disposed.

First Appeal Stamp No. 14817/2021

Heard.

2. The Appellant is directed to serve copy of the Memo of Appeal along with complete Annexures upon the respondents within a period of four weeks and file an affidavit of service with tangible proof in this Court by the next date.

3. List the matter on 14/11/2022.

[ABHAY AHUJA, J.]