

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO.7642 OF 2023
IN FAST/29077/2022 WITH CA/270/2023 IN FAST/29077/2022 WITH
CA/271/2023 IN FAST/29077/2022

AKSHAY SANDEEP SONAWANE
VERSUS
DEPOT MANAGER MAHARASHTRA STATE ROAD TRANSPORTATION
CORPORATION AND ORS

...

Advocate for Applicants : Mr. Sushant Baburao Choudhari
Adv for Respondent No.1: Mr. Anand Wange.
Adv. For respondent NO.3 : Mr. A.S. Usmanpurkar.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 23rd JUNE, 2023

P.C. :-

IN CIVIL APPLICATION 270 OF 2023 FOR CONDONATION OF DELAY :

By this application, the applicant is seeking to condone the delay of 112 days caused in filing the appeal.

Having considered the reasons stated in the application, the application deserves to be allowed. Delay of 112 days caused in filing the appeal is condoned. Appeal be registered.

Civil application is disposed of.

IN CIVIL APPLICATION NO. 7642 OF 2023 FOR WITHDRAWAL

The applicants/ original claimants are seeking withdrawal of the amount deposited by the respondent MSRTC in pursuance of the award passed by the MACT, Osmanabad.

Mr. Chaudhari, learned advocate for the applicant would submit that the injured/claimant was traveling in MSRTC bus. There was a collision between the bus and the truck. It is a case of composite negligence of the bus and truck driver. The Tribunal s assessed compensation on the basis of evidence adduced by the parties. He would further submits that the dispute in this appeal is between MSRTC and Insurer of the Truck, for which claimant need not be made to suffer.

Mr. Wange, learned counsel for the respondent would submit that there are several appeals arising out of the same accident and pending for consideration before this court. He would oppose the application for withdrawal of the amount on the ground that recovery of compensation would be difficult once it is disbursed in favour of the claimants.

Having considered the submissions advanced, it can be gathered that this case is governed by the principles of composite negligence. Even if the appeal is allowed, the appellant would be entitled to recover the amount from the insurer of the Truck.

In that view of the matter :-

- a] The application is allowed.
- b] The amount deposited in this court be disbursed to the claimants as per the award passed by the Tribunal.

[S.G.CHAPALGAONKAR]
JUDGE

grt/-