

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

FIRST APPEAL (ST) NO.2391 OF 2019

WITH

CIVIL APPLICATION NO.993 OF 2019

The State of Maharashtra
(At the Instance of the Deputy
Commissioner of Excise)

...Appellant/Applicant

Versus

Smt. Sanjubai Dnyaneshwar Patil (Koli) ...Respondent

WITH

INTERIM APPLICATION NO.14580 OF 2023

Smt. Sanjubai Dnyaneshwar Patil (Koli) ...Applicant

Versus

The State of Maharashtra
(At the Instance of the Deputy
Commissioner of Excise)

...Respondent

Mr. A.R. Patil, AGP for the Appellant – State.

Mr. Ashok Tajane for Respondent and Applicant in Interim
Application No.14580 of 2023.

CORAM : RAJESH S. PATIL, J.

DATED : 20 OCTOBER, 2023.

PC.:

CIVIL APPLICATION NO.993 OF 2019

1. This Civil Application is filed for condoning the delay in
filing the First Appeal. There is a delay of 2 years and 60 days.

2. This First Appeal is arising out of Motor Accident Claim

Petitioner No.149 of 2013 by Judgment and Award dated 26 August, 2016. The Motor Accident Claim Petition was allowed and an amount of Rs.6,98,000/- along with interest at the rate of 9% was granted .

3. In this Civil Application, it has been stated that after the Judgment and Award dated 26 August, 2016 was passed it took some time to the Government to apply for certified copy. After obtaining the certified copy, further instructions were to be taken from Higher Authority for challenging the impugned Judgment and Award.

4. After such instructions were available, the First Appeal has been immediately filed along with Delay Condonation Application. It is further stated that no prejudice would be caused to the Respondent if the delay is condoned.

5. Mr. Tajne appearing for Respondent/Original Claimants state that the Application is devoid on merits and no sufficient reasons is given in this Application for condoning the delay. Mr. Tajane also referred to an Order dated 8 September, 2023 passed in First Appeal (St) No.2400 of 2019, wherein the Delay Condonation Application for similar period of 2 years and 60 days

was dismissed on merits.

6. Mr. Tajane states that the said First Appeal (St) No.2400 of 2019 arises out of the same Motor Accident, in which this Court has held that there is no sufficient reasons to condone the delay.

7. Heard both the sides and I have gone through the contents of this Civil Application. It appears that the application for issuance of certified copy was made after 1 year and 6 months. There is no reason given in this Civil Application as to why a period of 1 year and 6 months was taken to apply for the certified copy. So also, after the certified copy of impugned Judgment and Award being made available on 7 February, 2018, a further period of 10 months were taken by the Law and Judiciary Department to take advice from Solicitor to Government on the issue of whether to challenge the impugned Judgment and Award. I have also considered the order passed on 8 September, 2023 by Single Judge of this Court thereby, dismissing the delay condonation which arises from the same motor accident.

8. Supreme Court in the case of *Esha Bhattacharjee V/s. Managing Committee of Raghunathpur Nafar Academy*¹ and in

¹ (2013) 12 SCC 649

the case of *PK. Ramchandran V/s. State of Kerala*², that if there is no satisfactory reasons given in the condonation delay application, the same should be rejected.

9. Taking into consideration the reason given in the Civil Application and law laid down by the Supreme Court, I am not satisfied, hence to allow this Civil Application requires to be rejected.

10. Civil Application is dismissed. No costs.

11. In view of the rejection of this Civil Application for delay condonation, the First Appeal is also disposed off. As far as Civil Application for withdrawal of Award amount, the same has become now infructuous. The Original Claimants can apply to the concerned MACT for withdrawal amount deposited by the State of Maharashtra with the accrued interest.

(RAJESH S. PATIL, J.)

² (1997) 7 SCC 556