

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

**CIVIL APPLICATION NO. 2333 OF 2018
IN
FIRST APPEAL STAMP NO. 28415 OF 2016**

Shirish Bajrang Mahankal & ors.

....Applicants/
Appellants

Versus

Suresh Shamrao Raut

....Respondent

Mr. S. S. Aradhye along with Ms. Gauri Velankar, Advocate for the Applicants.

Mr. H. S. Shinde, Advocate for the Respondent.

CORAM : SHIVKUMAR DIGE, J.

DATE : 14th MARCH 2023.

P.C. :

1. By this application, the applicants/ original respondent Nos.1 to 3 pray for condonation of delay for filing the appeal.

2. It is contention of learned counsel for the applicants that respondents are the owners of the offending vehicle, which was involved in the accident. The respondent/claimant filed claim petition against the applicants for getting compensation as respondents suffered injuries in the accident happened on 5th May 2009. After filing the claim petition, the applicants did not get an opportunity to

file written statement and the matter proceeded ex-parte against the applicants and without considering the evidence of the applicants, the Tribunal has passed the impugned order. Learned counsel further submits that the applicants appeared in the aforesaid matter before Motor Accident Claims Tribunal through their counsel but the applicants could not lead evidence. The applicants could not prefer the present first appeal in time as the reasons were beyond the control of the applicant. There is a delay of 3 years and 191 days in filing the present appeal. The said delay is neither deliberate or intentional. The applicants on various occasions tried to settle the matter with respondents. Hence, requested to allow the application.

3. Learned counsel for respondent/claimant strongly objected to allow the application on the ground that there is an inordinate delay of 3 years and 191 days. There is no proper explanation given for condonation of delay. Mere reason given is beyond control of the applicants and settlement talks are going on is not a proper reason to condone the delay. Hence, requested to dismiss the application.

4. I have heard both learned counsel. Admittedly, there is

delay of more than three years in filing the first appeal. It is settled principle of law that while considering condonation of delay, the Court has to consider sufficient reason and explanation for delay. In the present application, the applicants have mentioned that reasons are beyond their control and settlement talks were going on. In my view, these reasons are not sufficient to condone inordinate delay of more than three years. The respondent/claimant has suffered injury in the said accident and he got 62% disability in the said accident. Since the accident, he has not received any compensation. Hence, I pass the following order :

O R D E R

1. The application is dismissed.

(SHIVKUMAR DIGE, J.)