



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1078 OF 2019
WITH
INTERIM APPLICATION NO.1079 OF 2019
IN
FIRST APPEAL (STAMP) NO.26553 OF 2019

Anil Tryambak Ingale

...Applicant

Versus

Latabai Sahebrao Deore and Ors.

...Respondents

...

Mr. V.N. Sagare for the Applicant.

Ms Smita Gaidhani with Mr. Kedar Purav for the Respondents.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 28th AUGUST, 2023.

P. C. :-

1. The Applicant herein seeks to condone the delay of one year 98 days in filing the appeal under Section 173 of the Motor Vehicles Act, 1988.

2. The Applicant is the owner of the offending vehicle, which was involved in the accident on 16/03/2013 resulting in death of Sahebrao Deore, husband of Respondent No.1 and the father of Respondent No.2 to 6 herein. The offending vehicle was not insured. The Respondent Nos.1 to 6 filed Claim Petition against the Applicant

herein, being the owner and driver of the offending vehicle. The claim petition was allowed by the Tribunal by order dated 01/01/2016. By the impugned Judgment and Award the Claims Tribunal awarded compensation of Rs. 4,63,000/- with interest @9% p.a. from the date of the petition till final realization.

3. The records reveal that the Applicant had applied for certified copy on 01/01/2016. The copy was ready and was collected on 10/02/2016. The Applicant did not file an appeal but chose to file review application on 10/03/2016 on the ground that the Claims Tribunal had not appreciated the evidence correctly. The said application came to be dismissed on 05/03/2018 on the ground that there was no error apparent on the face of the record and that no case is made out to review the Judgment and Award under Order 47 Rule 1 of the CPC. The Applicant has filed an appeal alongwith application for condonation delay on 25/09/2019, which is about 1 year 98 days from the date of rejection of review application.

4. It is pertinent to note that the Applicant had not sought to review the judgment on the ground of any error apparent on the face of records but had challenged the judgment on merits. Hence, it is difficult to accept that review application itself was filed in good faith

as to exclude the time under Section 14 of the Limitation Act. Be that as it may, the appeal has been filed more than a year after dismissal of the review application. Apart from saying that the Applicant is a poor farmer and that he took time to collect the amount of court fees, no sufficient grounds are made out to condone the inordinate delay. It is pertinent to note that the accident is of the year 2013. Till date, the Respondents have not been able to enjoy the fruits of the Judgment and Award. Learned counsel for the Applicant states that the Applicant is unable to deposit the amount awarded by the Claims Tribunal. It appears that the Applicant is only trying to delay the matter and deprive the claimants of the benefits and fruits of the Judgment and Award. In such circumstances, I am not inclined to entertain the application. Hence, the application is dismissed. Consequently, registration of the First Appeal is rejected.

5. All interim applications stand disposed of in view of dismissal of delay condonation application.

6. Statutory deposit may be transferred to M.A.C.T., Nashik.

(SMT. ANUJA PRABHUDESSAI, J.)