

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CAF NO.2082/2019 AND FA ST.NO.11372/2018

Manoharsingh s/o Latpatsingh Parihar

..VS..

Manohar s/o Ambadas Kale and ors

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

.....
Ms Aastha Sharma, Counsel for the Applicant.

Shri C.A.Anthony, Counsel for NA No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 15/02/2023

1. By this application, the applicant who is original claimant, is seeking condonation of delay caused in filing the appeal against judgment and award passed by the Motor Accident Claims Tribunal, Amravati. Delay is of 128 days.

2. As per contention of the applicant, the impugned judgment and award was passed on 29.9.2017. He was driving auto-rickshaw for his livelihood. Due to the accident, he received injuries resulted into permanent disablement and he has sustained fracture to pelvic and urinal injury. There was rupture to the urinate and, therefore, he undergone the operation of supra pubic urinary divisions. He was unable to move and, therefore, he could not approach to counsel to file appeal. He further submitted that due the accidental injuries, he is unable to ply auto-rickshaw. He lost his earning and, therefore, he could not arrange money for court fees and, therefore, the delay in filing the appeal is caused. He submits that the delay is not intentional one and, therefore, the delay be condoned.

3. The application is strongly opposed by learned counsel Shri C.A.Anthony for non-applicant No.2 on the ground that in view of recent decision of the Honourable Apex Court in the case of **Ajay vs. Pyare Ram and others**, reported at **2023 SCC OnLine SC 92**, mere reason of financial crisis is not sufficient for condonation of delay.

4. Heard and perused the application.

5. The Trial Court observed that the applicant due to the accident suffered permanent disability to the extent of 40%. He was operated twice due to the fracture to the pubic region and hip, he was continuously bed ridden. He was unable to move. Mere financial crisis is not mentioned by the applicant. Moreover, it is well settled principle of law that there should be a liberal and non-pedantic approach while dealing with an application for condonation of delay. Since reasons mentioned in the application appear to be reasonable and justifiable, the delay can be condoned subject to waiver of interest for the delayed period.

6. In this view of the matter, for reasons stated in the application, the application is **allowed**. The delay stands condoned, however the same shall be subject to waiver of interest for the delayed period. Office to register the first appeal. Record and proceedings be called for. The appellant to submit notes of evidence on record and, thereafter, office to place the appeal for final hearing.

7. The application is **disposed** of.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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