

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAF) NO.53 OF 2020
IN
FIRST APPEAL STAMP NO.11308 OF 2019

Vrundabai w/o Kailash Landge
Vs.
The Controller, M.S.R.T.C., and others

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

Court's or Judge's orders

Mr. Kunal Mirache, Advocate h/f Mr. P. S. Mirache, Advocate for appellant/applicant.
Mr. S. R. Charpe, Advocate for respondent No.1.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 29/03/2023

Present application is filed for seeking condonation of delay of 379 days which is caused in preferring the appeal against the Judgment and Award passed by the Motor Accident Claims Tribunal-3, Nagpur.

It is contention of the applicant that she met with an accident on 27.9.2008, wherein she has sustained the grievous injuries which resulted into the 30% permanent disablement, therefore she was unable to move from one place to another. The learned Tribunal has awarded the compensation to her which was inadequate and, therefore, she filed this appeal for enhancement of the compensation. However, 379 days delay is caused in preferring the application. Delay is not intentional one. Due to her physical constraints, she

could not approach to the Counsel and file the appeal. Moreover, she could not arrange the amount to pay the deficit court fees stamps, and therefore also, delay is caused.

The said application is strongly opposed by the learned Advocate Mr. Charpe appearing for the respondent No.1 on the ground that there is no sufficient and satisfactory reason for condonation of delay. Delay is also not properly explained. Hence, delay application deserves to be rejected.

Heard both the sides. Perused the application.

Considering the reasons mentioned in the application and from the record, it is apparent that the claimant has sustained grievous injuries which resulted into 30% permanent disablement, therefore there were restrictions on her movement and she could not approach to the Counsel to prefer an appeal. It appears to be satisfactory and sufficient reason for condonation of delay. It is well settled that while considering the litigation which is filed under the beneficial legislation liberal approach is to be taken to do the substantial justice. In view of that, delay deserves to be condoned. However, considering that the appellant was not diligent in filing the appeal immediately, the delay is to be

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condoned, subject to the waiver of the interest, if appellant succeeds in the enhancement of the compensation.

In view of that, application is allowed.

Delay of 379 days is condoned.

Appeal be registered.

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Call for record and proceedings.

Appellant to file paper book within ten weeks, after receipt of the record and proceedings.

Place the appeal after filing of the paper book, its verification, as per its own turn.

(URMILA JOSHI-PHALKE, J.)

Sarkate