

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

CIVIL APPLICATION NO.33 OF 2023

IN

FIRST APPEAL (ST.) NO.13650 OF 2022

(The Traffic Engineer/Now Transport Manager, N.MC., Nagpur Vs. Prakash s/o Sadashiv Wani and anr.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Y. Chougule, Advocate h/f Shri R.R. Chhabra, Advocate for the
appellant.

Ms S.H. Bhatia, Advocate for respondent No.2.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- FEBRUARY 13, 2023.

By this application, the appellant is seeking condonation of delay of 85 days which is caused in preferring the first appeal against the judgment and award passed by the Motor Accident Claims Tribunal, Nagpur.

2. As per the contention of the applicant, the impugned order was passed on 05/04/2021.

3. The appellant-Municipal Corporation constituted under the Maharashtra Municipal Corporations Act, 1949.

4. After passing of the impugned judgment they have applied for the certified copies. Certified copies are received on 03/03/2022 thereafter the proposal was forwarded to the Assistant Law Officer for seeking opinion from the Law Officer of the Nagpur Municipal Corporation. Thereafter the Labour Officer of the Nagpur Municipal Corporation forwarded the proposal to the Law

Department and suggested that the appeal to be filed. Thus, the time was consumed in seeking the administrative orders before filing of the appeal, therefore, the delay is caused. Delay is not intentional one. There is just and reasonable cause for condoning the delay and hence delay be condoned.

5. After service of the notice, respondent No.1 failed to appear.

6. Ms Bhatia, learned Counsel for respondent No.2 – New India Assurance Company Ltd. raised objection that reasonable and justifiable reasons are not mentioned in the delay condonation application. Hence application deserves to be rejected.

7. Shri Chougule, learned Counsel for the appellant reiterated the same contentions and submitted that considering that the appellant is a body corporate who is to obtain the necessary approvals from the higher officials wherein the time was consumed, and therefore, the appeal is not filed within time. Thus, the reasons mentioned in the application is just and reasonable and the delay is not intentional one.

8. Perused the application and submissions of the learned Counsel for the appellant as well as the respondent No.2.

9. It is apparent that the appeal is filed by the Municipal Corporation through the Transport Engineer.

10. It is a part of procedure that the appellant has to obtain the necessary approvals from the higher officials, and therefore, delay is caused.

11. The reasons mentioned in the application appears to be just and reasonable. In view of that the delay of 85 days is condoned. The civil application is disposed of.

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Appeal be registered.

2. Call for R. & P.
3. The paper book is dispensed with.
4. Issue notice to the respondents of appeal on merit, returnable on eight weeks.

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By this application, the appellant is seeking stay to the implementation, effect and operation of the award passed by the Motor Accident Claims Tribunal in Claim Petition No.1212/2016.

2. By this award, it is held that respondent No.1 is liable to pay compensation to the petitioner along with interest.

3. Respondent No.2 is directed to pay the amount and recover it from the appellant.

4. In view of that the appellant shall deposit the amount of compensation within eight weeks. On depositing the amount within eight weeks the implementation, execution and operation of the award be

stayed till final disposal of the appeal. On failure, the stay granted will be vacated automatically without further reference to the Court.

5. Stand over to eight weeks.

(URMILA JOSHI-PHALKE, J.)

**Divya*