

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

CIVIL APPLICATION (O) NO.767 OF 2022

IN

MISC. CIVIL APPLICATION (ST) NO.14858 OF 2022

IN

FIRST APPEAL NO.871 OF 2019 (D)

[Oriental Insurance Co. Ltd. ..V/s.. Harshal Singh S/o Amarsingh Vyas and
Ors.]

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

Court's or Judge's order

Mr T. T. Mirza, Adv. h/f Mr A. M. Quazi, Advocate for Applicant/Appellant.
Ms D. Kolhe, Advocate for Respondent Nos.2 and 3.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 14th MARCH, 2023.

1. By this application, the applicant/appellant is seeking condonation of delay of 440 days, which is caused in filing the application for restoration of first appeal. First appeal No.871 of 2019 was dismissed, as appellant failed to file the paper-book.

2. As per the contention of the applicant, inadvertently as he was under the impression of private paper-book has already been filed, it was not filed and therefore appeal is dismissed. Now, he filed the paper-book immediately.

3. In view of the reasons mentioned in the application, application is allowed. Delay of 440 days is condoned.

4. Civil Application No.767 of 2022 is disposed of.

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5. On filing of the paper-book within one week, the appeal be restored at its original state. On failure to file the paper-book within one week, the order passed by this Court will survive.

6. Civil application is disposed of.

CIVIL APPLICATION (F) NO.2029 OF 2022.

7. This application is filed by the claimants for seeking permission for withdrawal the amount of compensation.

8. As per the contention of the claimants, though the award is passed in their favour, they have not received any amount towards compensation. Respondent No.1 is the elder brother died and respondent No.2 is pursuing his studies, therefore, he is in need of money for his further studies.

9. Said application is strongly opposed by the learned Advocate for appellant – Insurance Company on the ground that now the appeal is ready for final hearing. So, it be disposed of and application be rejected.

10. In view of the reasons mentioned in the application and objection raised, the claimants are permitted to withdraw 50% of the amount on usual undertaking.

11. The amount be disbursed to the claimants on due identification and verification.

12. The civil application is disposed of.

13. First appeal be placed before the Court after paper-book is filed, its verification for final hearing, as per its own turn.

JUDGE