

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

CIVIL APPLICATION (CAF) NO. 440/2020 IN
FIRST APPEAL STAMP NO. 18210/2019

Kishor S/O Prabhakar Dawoo Vs Satish Cargo Movers And Another

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

Court's or Judge's Order

Mr K.S. Mirache, counsel for applicant/appellant.

Ms Anjali Agrawal, counsel h/f Ms A.S. Athalye, counsel for respondent No.2

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 15/03/2023.

1. This is an application for condonation of delay of 655 days which is caused in preferring the Appeal against the judgment and award passed by the Member, Motor Accident Claims Tribunal, Nagpur.
2. As per the contention of the appellant, the claimant has sustained grievous injuries in vehicular accident dated 21.5.2008, when he was proceeded in offending vehicle bearing MH-31-AH-8817. At the relevant time, another offending vehicle which was driven in rash and negligent manner, gave dash and sustained grievous injuries, which resulted into permanent disablement. Due to the accidental injuries, he sustained 50% of permanent disablement and he could not continue with the job and therefore, he is suffering from financial crises. Though the tribunal has awarded the compensation, the same is inadequate and

therefore, he preferred this appeal for enhancement of the compensation.

3. Due to the paucity of funds, he could not filed an appeal within time. Therefore, delay of 655 days is caused in preferring the appeal. There is sufficient and reasonable caused for condonation of delay.

4. The said application is strongly opposed by the learned counsel Ms Anjali Agrawal, counsel h/f Ms A.S. Athalye, counsel for respondent No.2, on the ground that delay is not properly explained.

5. Heard both the sides. Perused the application.

6. It is apparent that, the appellant has sustained grievance injuries which resulted into 60% disablement. Due to the accidental injuries and permanent disablement, he could not approach to the Court because of financial crises. Considering the fact that, the appellant has claimed compensation under the provision of beneficial legislation. He cannot be deprived from getting the compensation at the enhanced rate for technical reasons. To do the substantial justice, liberal approach is to be taken to condone the delay.

7. For the reasons stated in the application, a delay of 655 days in filing the First Appeal is condoned. Subject to the waiver of the interest, if the appellant succeeds in the appeal.

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1. Appeal be registered.
2. **Admit**
3. Call for record and proceedings.
4. Ms Anjali Agrawal, counsel h/f Ms A.S. Athalye, counsel waives service of notice on behalf of respondent No.2
5. Appellant to file private paper-book within a period of eight weeks after receipt of record and proceedings.
6. Place the matter after filing of private paper-book and its verification.

JUDGE