

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

CIVIL APPLICATION (CAF) NO. 2078/2021 IN
FIRST APPEAL ST. NO. 22285/2018

Jyostna Wd/O Eknath Chorey And Others Vs Santosh S/O Ramlalji Gujar 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 S.D. Chopde, advocate for the appellants/applicants.

Mr Abhishek Bhuibhar, advocate for the respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 09/03/2023.

1. This application is filed by the applicants for condonation of delay in preferring the first appeal.
2. Present appeal is preferred by the applicants against the judgment and award passed by the Chairman, Motor Accident Claims Tribunal, Akola. However, a delay of 122 days is caused in preferring the appeal.
3. The reason mentioned in the application is that appellant No.1 was badly injured in the accident and was under treatment. Therefore, he could not approach the advocate to file an appeal, and therefore, the delay of 122 days is caused in preferring the appeal.
4. Mr Abhishek Bhuibhar, learned advocate for respondent No.2 submitted that, the delay is not properly explained and hence civil application deserves to be rejected.
5. Heard both the sides. Perused the application.

6. Reasons mentioned in the application that as the applicant was injured, she could not approach. Admittedly, the applicants are claiming compensation under the beneficial legislation. They have challenged the observation of the learned trial Court holding them contributory negligence for the alleged accident. In view of the reasons mentioned in the application and in the light of the settled legal position that while considering the delay application, the liberal approach is to be taken. To do substantial justice, the application deserves to be allowed. Delay of 122 days in filing the first appeal is condoned.

Civil application is disposed of.

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1. Appeal be registered.
2. **Admit.**
3. Call for record and proceedings.
4. Mr Abhishek Bhuibhar, learned advocate 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 for final hearing after filing of private paper-book and its verification, as per its own turn.

JUDGE