



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

960 CIVIL APPLICATION NO. 3713 OF 2016
IN FAST/8260/2016

Kusumbai Waman Patil (Sonawane) & othersApplicants

VERSUS

Bajaj Allianz General Insurance Co. Ltd.
& anotherRespondents

.....

Mrs. S. T. Kazi, Advocate for Applicant
Mr. M. R. Deshmukh, Advocate for respondent No. 1.

CORAM : R. M. JOSHI, J.
DATE : 15th FEBRUARY, 2024.

PER COURT :

1. This application is for condonation of delay of 64 days caused in preferring appeal against judgment and award dated 12th October, 2015, passed in Motor Accident Claim Petition No. 589/2010.
2. Heard learned counsel for both the sides.
3. Learned counsel for respondent/insurer opposes the application on the ground that no sufficient reason is mentioned for condonation of delay.

4. Perusal of the application shows that delay is explained properly. No malafides can be attributed to the appellants in not preferring the appeal in time. Hence, application is allowed.

5. Learned counsel for insurer further submits that the appellants would not be entitled for any interest, if they succeed in the appeal, till the date of passing of this order. In support of his contention, he relied upon orders passed by this Court in Civil Application No. 1172/2022, Civil Application No. 5104/2023 and Civil Application No. 1594/2022. With due respect to the orders cited supra, this Court is of the view that there cannot be straight jacket rule for denying interest to the appellants, as nature of the proceedings and bonafides of the parties need to be taken into consideration. It would be also necessary to consider relevant rules applicable to the proceedings before this Court and compliance thereof.

6. Present appeal is for enhancement of compensation granted by the Tribunal under Motor Vehicles Act, which is a beneficial legislation. There is nothing to indicate that deliberately or with malafide intention to get advantage, matter is not circulated.

Unlike provisions under Land Acquisition Act, the appellant would not get specified interest rate on enhanced compensation. Having regard to nature of proceeding it cannot be said that claimants have deliberately kept proceeding pending.

7. Chapter X Rule 2 of the Bombay High Court Appellate Side Rules, 1960, provides for preparation of Warned Lists and Arrears Lists. Consideration of said rules shows that it is the duty of Registrar to place the matter on such list after its filing and removal of office objections within 90 days. As far as present application is concerned, it does not appear on any such list.

8. The proceeding arises out of contractual relationship and having regard to the peculiar nature of the proceedings and as no malafides can be attributed to appellant/applicant, this Court is not inclined to accept the submission to deny interest for above period to the appellant.

(R. M. JOSHI)
Judge

dyb