



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**982 CIVIL APPLICATION NO. 4701 OF 2024 (stay)
IN FAST/12886/2024**

The Maharashtra State Road Transport Corporation Through
The Divisional Controller

VERSUS

Sakharam Vithoba Kshirsagar

...

Advocate for Applicant : Mr. Wange Anand Dnyanoba

Advocate for Respondents : Mr. Satish P Dhobale For R/3,

Adv. Golewar V. P. For R/1

...

WITH

**CIVIL APPLICATION NO. 4700 OF 2024 (delay)
IN FAST/12886/2024**

The Maharashtra State Road Transport Corporation Through
The Divisional Controller

VERSUS

Sakharam Vithoba Kshirsagar And Anr

...

Advocate for Applicant : Mr. Wange Anand Dnyanoba

Advocate for Respondents : Mr. Golewar V. P. For R/1

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WITH

**CIVIL APPLICATION NO. 7725 OF 2024 (withdrawal)
IN FAST/12886/2024**

Sakharam Vithoba Kshirsagar

VERSUS

The Maharashtra State Road Transport Corporation Through
The Divisional Controller And Another

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Advocate for Applicant : Mr. Golewar Vishwanath P.

Advocate for Respondents : Mr. A. D. Wange For R/1

CORAM : S. G. CHAPALGAONKAR, J.

Dated : August 23, 2024

PER COURT :-**CA for Delay :-**

1. The applicant seeks to condone the delay of 50 days caused in filing the appeal.

2. Having considered the submissions advanced and averments in the application, case is made out to condone the delay. The application is therefore allowed. Delay is condoned.

CA disposed off.

CA for Stay :-

3. Heard learned advocates appearing for the respective parties.

4. Mr Wange, learned counsel appearing for the applicant submits that entire awarded amount is deposited with the Registry of this Court. Mr. Golewar, do not dispute the aforesaid position.

5. Considering the submissions advanced, the application is allowed in terms of prayer clause 'B' and **disposed off.**

CA for Withdrawal of the amount :-

6. By this application, the applicant is seeking permission to withdraw amount deposited by the respondent/MSRTC in pursuance of the Award passed by the Tribunal under section 166 of the Motor Vehicles Act. Mr. Golewar, learned advocate appearing for the applicant submits that applicant was seriously injured in the accident and suffered 25% of the permanent disability. The accident occurred due to fault on the part of the S.T. Driver. The Tribunal, after considering the

relevant factors, passed award in favour of the applicant. He submits that applicant needs amount for medical treatment and also for his survival. Therefore, he urges to release the amount.

7. Mr. Wange, learned advocate appearing for the Respondent MSRTC vehemently opposed the prayer and submits that deceased while riding motorcycle dashed on rear side of the ST Bus. He himself is responsible for the accident.

8. Having considered the submissions advanced, it is apparent that Tribunal relying upon the police papers recorded finding of negligence against MSRTC Driver. There is no dispute that the applicant suffered permanent disablement. Medical certificate to that effect is placed on record. Doctor is examined. The applicant appears to have spent more than one lakh rupees towards medical treatment.

9. Considering the submissions advanced and grounds of appeal, it would be appropriate to permit the applicant to withdraw 50% of the amount deposited by the Respondent MSRTC alongwith interest, subject to certain conditions. Hence, following order.

O r d e r

- i. The application is allowed.
- ii. The applicant is permitted to withdraw 50% of the deposited amount alongwith accrued interest thereon subject to condition that the applicant files usual undertaking to the

satisfaction of the Registrar (Judicial) of this Court.

Iii. Civil application stands **disposed off**.

(S. G. CHAPALGAONKAR, J.)

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