



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

**927 CIVIL APPLICATION NO. 12324 OF 2024
IN FAST/14398/2023**

NURJAHABEGUM W/O SHAIKH MOINODDIN AND OTHERS
VERSUS
VITHALRAO NAGORAO GHODKE AND ANOTHER

...
Advocate for Applicant : Mr. Kiran M. Nagarkar.

Advocate for Respondent No.2 : Mr. Mukesh Kamalkishre Goyanka.

...

AND

CIVIL APPLICATION NO. 5889 OF 2023
IN FAST/14398/2023

AND

CIVIL APPLICATION NO. 5890 OF 2023
IN FAST/14398/2023

...

CORAM : **KISHORE C. SANT, J.**

DATE : 21st November, 2024.

P.C.:

Application for condonation of delay:

. In spite of service, none appears for respondent No.1.

2 Heard the learned counsel for the parties present before the Court.

3 For the reasons stated in the application, the delay of 60 days caused in filing the first appeal stands condoned. The application stands allowed. Appeal be registered.

Application for stay:

4 Since the amount is already deposited in this Court, there shall be stay to the impugned judgment and award till the disposal of the appeal. The application stands disposed of.

Appeal:

5 Issue notice to respondents. Mr. K. M. Nagarkar, learned counsel waives notice on behalf of respondent Nos.1 to 6.

Application for withdrawal of amount:

6 At the outset, the learned counsel for applicants seeks leave to correct the names of applicant Nos.2 to 6. Leave granted. Corrections be carried out immediately.

7 This application is for withdrawal of the amount. Applicant Nos.3 and 4 are minors.

8 The learned counsel for appellant vehemently opposes the application. He submits that though the accident took place on 21st August, 2016, the FIR was lodged after more than 4 months i.e. on 30th December, 2016. The person, who lodged the FIR claims to be an eye-witness. Thus, the involvement and lodging of the FIR are highly doubtful. The amount of compensation is also on quite higher side. He, thus, opposes the application.

9 The learned counsel for the applicants, however, points out that on 6th September, 2016 itself a statement was recorded before the police, showing the involvement of the vehicle. Still the police did not take any action of registration of the FIR. This cannot be said to be fault of the claimants.

10 Considering the above, the following order is passed:-

ORDER

- I. Applicants Nos.1, 2, 5 and 6 are permitted to withdraw 50% of the amount to the extent of their share alongwith accrued interest deposited in this Court on furnishing usual undertaking.
- II. The amount to the extent of share of applicant Nos.3 and 4 and the remaining amount be kept in fixed deposit in any nationalized bank till disposal of the appeal.
- III. With this, the civil application for withdrawal of amount stands disposed of.

[KISHORE C. SANT, J.]