



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 CIVIL APPLICATION NO. 16499 OF 2016
IN FAST/35050/2016

DNYANESHWAR MADHUKAR PATIL AND OTHERS
VERSUS
SUNILKUMAR THAKURSINGH YADAV AND ANOTHER

...
Advocate for Applicants : Mr. Madhav M. Bhokarikar
Advocate for Respondent no.2 : Mr. A. S. Usmanpurkar
...

CORAM : Y. G. KHOBRAGADE, J.

DATE : 16.04.2024

PER COURT :

1. Heard Mr. Bhokarikar, the learned counsel appearing for the applicant and Mr. Usmanpurkar for non applicant no.2. The non-applicant no. 1 filed reply, but none appeared on his behalf.

2. In the present application, the question arises that whether the applicants have explained the delay of 1969 days properly caused while lodging the First Appeal challenging the judgment and award dated 29.03.2011 passed by the learned Member, Motor Accident Claims Tribunal, Jalgaon in Motor Accident Claim Petition No. 444/2007.

3. The learned counsel appearing for the appellant submits that, on 29.03.2011, the impugned judgment and award passed by the learned

Member, Motor Accident Claims Tribunal, Jalgaon. Thereafter, the appellants / applicants were required to file a present appeal on or before 28.06.2011 excluding the period consumed for obtaining the certified copy of judgment and award.

4. It is further canvassed that the counsel for the applicants was applied for certified copies and had received by him but copies of judgment and award had not been delivered to the claimants. Therefore, there is delay of 1969 days. It further contended that they came to know about the judgment and award in the month of August-2016, therefore, they approached their counsel for legal advice for enhancement of the compensation, at the time of appeal they were minors.

5. The non-applicant no.1 owner of the offending vehicle filed reply affidavit and strongly opposed the application on the ground that after the judgment and award passed by the learned Member, Motor Accident Claims Tribunal, Jalgaon on 29.03.2011 the claimants/applicants got knowledge of award. However, applicants slept over their rights for more than 5 years and no proper justification has been given, hence prayed for rejection of the application.

6. The non-applicant no.2 through its signatory authority filed his affidavit in reply and contended that, on 29.03.2011, the judgment and award passed by the learned Member, Motor Accident Claims Tribunal, Jalgaon and the applicants have filed execution proceeding bearing MACP Darkhast No. 75/2011 on 20.04.2011 immediately in next month. Further, the non-applicant no.2 deposited entire amount of compensation, therefore, the applicants were having very much knowledge about passing of the order and award dated 29.03.2011 when the non-applicant no.2 deposited the claim amount in execution proceeding. Therefore contention of the applicants that they got knowledge about judgment and award dated 29.03.2011 first in the month of August-2016 is not justifiable, hence, prayed for rejection of the application.

7. Needless to say that, on 29.03.2011, the learned Member, Motor Accident Claims Tribunal, Jalgaon passed judgment and award in M.A.C.P No. 444/2007 and granted compensation to the tune of Rs. 4,27,500/- (Rupees Four Lac Twenty Seven Thousand Five Hundred only) inclusive of NFL liability along with interest @ 7.5% per annum thereon by considering the income of the deceased to the tune of Rs. 4000/- per month as the deceased was doing agricultural work. Thereafter, the present applicants have filed execution proceeding

M.A.C.P Darkhast No. 75/2011 on 20.04.2011 soon after lapse of one month from the date of judgment and decree. Thereafter, the present non-applicant no.2 - Insurance Company deposited entire award amount before the executing Court on 23.06.2011. The applicants withdrawn the said amount in the year 2011 itself. Therefore, it is not substantiated that the applicants got the knowledge of the judgment and award dated 29.03.2011 in the month of August-2016 only. Therefore, to my mind grounds set out in the application for condonation of delay of 1969 days does not appear bonafide and substantial. Therefore, I am not inclined to grant Civil Application. C.A. No. 16499/2016 is hereby rejected. Ultimately the registration of First Appeal is declined.

(Y. G. KHOBRAGADE, J.)

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