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924-ca-750-17

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

**924 CIVIL APPLICATION NO. 750 OF 2017
IN FAST/35054/2016**

**KAVITA ISHWAR PATIL AND ANOTHER
VERSUS
THE BRANCH MANAGER, THE NEW INDIA ASSURANCE COMPANY
LIMITED AND OTHERS**

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Advocate for Applicants : Mr. Madhav M. Bhokarikar
Advocate for Respondent / non-applicant no.1 : Mr. A. S.Usmanpurkar

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 16.04.2024

PER COURT :

1. Heard Mr. Bhokarikar, the learned counsel appearing for the applicants and Mr. Usmanpurkar, learned counsel for non applicant no.1. Respondent nos. 2 to 4 served, but none appeared on behalf of them.

2. In the present application the question arises that whether the applicants have properly explained the delay of 2254 days caused while lodging the First Appeal challenging the judgment and award dated 17.06.2010 passed by the learned Member, Motor Accident Claims Tribunal, Jalgaon in Motor Accident Claim Petition No. 236/2004.

3. The learned counsel appearing for the appellants submits that, on 17.06.2010, the impugned judgment and award passed by the Member,

Motor Accident Claims Tribunal, Jalgaon. Thereafter the appellants / applicants were required to file a present appeal on or before 16.09.2010 excluding the period consumed for obtaining the certified copy of judgment and award.

4. It is further canvassed that the applicants have 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 2254 days. The applicants came to know about passing of the judgment and award in the month of September-2016, therefore, they approached their counsel for legal advice for enhancement of the compensation.

5. The non-applicant no.1 through its signatory authority filed his affidavit in reply and contended that, on 17.06.2010, the judgment and award passed by the learned Member, Motor Accident Claims Tribunal, Jalgaon. Further, the non-applicant no.1 deposited entire amount of compensation, therefore, the applicants were having knowledge about passing of the order and award dated 17.06.2010 when the non-applicant no.1 deposited the claim amount in the year 2010 and withdrawn by claimants. Therefore contention of the applicants that they got knowledge in the month of September-2016 about judgment

and award dated 17.06.2010 is not justifiable, hence, prayed for rejection of the application.

6. Needless to say, that on 17.06.2010, the learned Member, Motor Accident Claims Tribunal, Jalgaon passed judgment and award in M.A.C.P No. 236/2004 and granted compensation to the tune of Rs. 3,79,500/- (Rupees Three Lac Seventy Nine Thousand Five Hundred only) inclusive of NFL liability along with interest @ 7.5% per annum by considering the income of the deceased to the tune of Rs. 4000/- per month as the deceased was working agricultural work. The present non-applicant no.1- Insurance Company deposited award amount in the year 2010 and the applicants already withdrawn the said amount. Therefore, it is not substantiate that the applicants got the knowledge of the judgment and award dated 17.06.2004 only in the month of September-2016. Therefore, to my mind the grounds set out in the application for condonation of delay of 2254 days does not appear bonafide and substantial. Therefore, I am not inclined to grant Civil Application. C.A. No.750/2017 is hereby rejected. Ultimately the registration of First Appeal is declined.

(Y. G. KHOBRADE, J.)

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