

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 16120 OF 2023 (condonation of delay)****IN****FIRST APPEAL STAMP NO. 27483 OF 2023**

Chief Officer, Silvassa Municipal Council

... Appellant/
Applicant

Versus

Agnel Ganpat Gavali and Anr.

... Respondents

WITH**INTERIM APPLICATION NO. 8551 OF 2024 (withdrawal)****IN****FIRST APPEAL STAMP NO. 27483 OF 2023**

Agnel Ganpat Gavali

... Applicant

IN THE MATTER OF :

Chief Officer, Silvassa Municipal Council and Anr.

... Appellants

Versus

Agnel Ganpat Gavali and Anr.

... Respondents

WITH**INTERIM APPLICATION NO. 16121 OF 2023 (stay)****IN****FIRST APPEAL STAMP NO. 27483 OF 2023**

Chief Officer, Silvassa Municipal Council

... Appellant/
Applicant

Versus

Agnel Ganpat Gavali and Anr.

... Respondents

.....

Mr. Manoj M. Sabale a/w. Budhbbhushan Rajratra i/b. Mr. Hiten Venegavkar, Advocate for the Applicant.

Mr. T. J. Mendon, Advocate for Respondent No.1.

CORAM : ARUN R. PEDNEKER, J.**DATED : 5th JULY, 2024.**

P.C. :

1. Heard learned counsel for the parties.
2. The present appeal is filed by the Silvassa Municipal Corporation, challenging the compensation granted by the Tribunal to the claimant who had suffered injuries on account of the accident with the vehicle of the Municipal Corporation. On account of the accident, the injured claimant had sustained 60% permanent disability in the form of his right upper and lower limb. It had taken 6-12 months for the patient with such injuries to recover. The doctor has also opined that such patient cannot walk properly and cannot stand for long time and will have trouble in speedily moving. Further, such patient cannot perform work for long time. Such patient can perform daily routine work and normal clerical work with his left upper and lower limb. The claimant was at the relevant time was a Service Engineer who had to travel 15 to 20 days every month. On account of the accident, he is now shifted to clerical work and his salary is reduced from Rs.30,000/- to Rs.9,000/- per month. Taking into consideration this fact, the Tribunal has awarded compensation of Rs. 17,70,000/- along with interest @ 6% p.a. from the date of filing of the petition.
3. Learned counsel for the applicant submits that applicant is now performing the job of Service Engineer, however prima facie there is no such evidence available before the Tribunal. Medical claim is not allowed

since the same has been reimbursed by the employer of the respondent claimant.

4. In view of the fact situation, I permit the applicant to withdraw Rs.10,00,000/- from the amount granted by the Tribunal along with accrued interest subject to filing of usual undertaking to the satisfaction of the Presiding Officer of the Tribunal.

5. **Interim Application No. 8551 of 2024** is disposed of.

6. **Interim Application No. 16120 of 2023** : The ground mentioned for condonation of delay at paragraph No.3(a), (b) and (c) are :

- (a) The Applicant states that, after the impugned order was passed, the said impugned order was placed before higher authorities to take a decision as to whether an appeal should be preferred in the present matter. Considerable time was passed in taking the final decision.
- (b) In the mean time the entire country went under Lock down and therefore the said file became dormant.
- (c) By the time the lockdown was lifted and the offices resumed to their day to day functioning, Government of India took a decision to merge all three union territories i.e. Daman, Diu and Dadra Nagar Haveli into one union territory. Because of the merger there was too much of revamping of government officers including the officers of the Appellant. In this process the aforesaid file could not be taken for consideration.

The delay is too large to be condoned. However, for reasons stated and subject to cost of Rs.10,000/- be paid to the High Court Bar Association, the delay is condoned. In view thereof, Interim Application No. 16120 of 2023 allowed and disposed of. The Appeal be registered.

7. The stay of the impugned order granted earlier stands confirmed till

the final disposal of the appeal. Interim application No. 16121 of 2023 is disposed of.

(ARUN R. PEDNEKER, J.)