



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

916 CIVIL APPLICATION NO. 11813 OF 2024
IN FAST/28695/2024
WITH
CIVIL APPLICATION NO. 1207 OF 2025
IN FAST/28695/2024
WITH
CIVIL APPLICATION NO. 11815 OF 2024
IN FAST/28695/2024

DIVISIONAL MANAGER, NATIONAL INSURANCE CO. LTD.,
NAGINA GHAT, NANDED THR. ITS TP HUB.

VERSUS

SUNITA W/O PRAKASH UMALE AND ANR

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Advocate for Applicant : Mr. Mr Atul Bhaskar Gatne
Advocate for Respondent No.1 : Mr.Agrawal Pawankumar S.

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CORAM : S. G. CHAPALGAONKAR, J.
Dated : 30.01.2025

PER COURT :-

ORDER IN DELAY CONDONATION APPLICATION :

1. Heard Mr. Gatne, learned Advocate appearing for applicant and Mr. Agrawal learned Advocate appearing for respondent No. 1.
2. Applicant seeks condonation of delay of 168 days caused in filing appeal.

3. Perusal of the application and reasons stated in application shows that delay is occasioned on account of administrative reasons. The averments in application are not controverted by filing affidavit in reply. Hence a case is made out to condone delay. Resultantly, application stands allowed. Delay of 168 days, caused in filing appeal stands condoned. Appeal be registered subject removal of office objections.

ORDER IN STAY APPLICATION :

4. Heard learned Advocate appearing for applicant/Insurance Company. He submits that entire amount as per award passed by Tribunal has been deposited with registry of this Court. His statement is supported by office endorsement. In that view of the matter, application stands allowed in terms of prayer Clause (B) and is disposed off.

ORDER IN WITHDRAWAL APPLICATION :

5. Heard learned Advocates for respective parties.

6. Applicant seeks permission to withdraw amount deposited by appellant Insurance Company, pursuance to the award passed by learned Motor Accident Claims Tribunal,

Parbhani in MACP No. 454 of 2019. Applicant suffered injuries in motor vehicular accident dated 21.04.2017, while traveling in a luxury bus bearing No. MH-29-M-8493. Bus dashed against a Container in the wee hours. Claimant suffered fracture with multiple injuries on several parts of body. He suffered permanent disablement of 10%, therefore, he filed claim seeking compensation against owner and insurer of bus. The Tribunal after considering evidence, allowed claim and passed award of Rs. 5,01,267/- along with 6% interest in favour of claimants.

7. Aggrieved, insurer filed present appeal on ground that it was a case of composite negligence and that award has been passed. It is trite that in case of composite negligence claimants have choice to file proceedings for recovery of compensation against any one of joint tort fissure. So far as, quantum of compensation is concern, tribunal considered evidence of CW-1, Gajanan Kale, assessed compensation. In that view of the matter, entitlement of claimant to receive compensation cannot be disputed. Whether compensation awarded is excessive, exorbitant as claimed by Insurer can be considered at the time of final hearing of the appeal, however, at present claimant is permitted to withdraw 75% of the

compensation deposited by insurer, on submitting usual undertaking to the satisfaction of Registrar, (Judicial) of this Court.

8. The Civil Application stands disposed in aforesaid terms.

(S. G. CHAPALGAONKAR)
JUDGE

mahajansb/