



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 CIVIL APPLICATION NO. 3345 OF 2025
IN FAST/29731/2024

Ashok Keshav Munde And Anr

VERSUS

Javed Khan Fathe Khan And Anr

...

Advocate for Applicant : Mr. R.G. Hange

Advocate for Respondents : Mr. Shaikh Mazhar A. Jahagirdar

...

WITH

CIVIL APPLICATION NO. 11783 OF 2024 IN FAST/29731/2024
(delay)

WITH

CIVIL APPLICATION NO. 11784 OF 2024 IN FAST/29731/2024
stay

...

CORAM : S. G. CHAPALGAONKAR, J.

Dated : April 22, 2025

ORDER :-

(CA for Withdrawal of amount):-

1. The applicants are seeking permission to withdraw the amount deposited by the respondents in pursuance to the award passed by the Motor Accident Claims Tribunal, Aurangabad in M.A.C.P. No.75 of 2018.

2. The applicants are claimants in M.A.C.P. No.75 of 2018. They instituted claim for compensation towards accidental death of Ratnamala Mundhe. It is a case of claimant that she died in motor-vehicular accident dated 25.7.2016 involving a bullet bearing registration No.MH-20/DM-7575 owned by respondent no.1 and driven by respondent no.2. The claimants

relied upon police papers and evidence of eye witness to prove accident involving the motorcycle.

3. Although, respondents have filed written statement denying involvement of their vehicle, the Tribunal, after considering voluminous evidence in the form of police papers and evidence of eye witness, accepted case of the claimants and passed award for Rs.3,84,000/-.

4. Considering the submissions advanced and reasons as stated in the application, it would be appropriate to permit the applicants to withdraw an amount of Rs.3.00 Lakh (Rs. Three Lakh) on furnishing usual undertaking to the satisfaction of the Registrar Judicial of this Court that, in case, adverse order is passed, they shall redeposit the amount within a period of eight weeks from the date of said order. Undertaking to be made part of the appeal. CA stands disposed of. After disbursement of the amount permitted to be withdrawn, it be apportioned equally between the applicants/claimants. CA stands **disposed of**.

CA for delay :-

4. The applicants seeks to condone the delay of 902 days caused in filing the appeal.

5. The application is strongly opposed by the learned counsel appearing for the respondents.

6. Perused application and reasons. Impugned judgment and award is passed on 15.2.2020 i.e. just before the outbreak of corona pandemic. According to the applicants, advocate Mr.

G.M. Patel, who was represented expired on 20.3.2020 and they were not aware about it. They came to know about same only after receipt of notice as to execution of the award.

7. Aforesaid contents of the application are not controverted by the respondents by filing the reply. Respondents have not placed anything on record that applicants have knowledge about the impugned award before they were served the notice of execution. It is true that it was duty of the applicants to keep watch over the proceeding and even after death of Advocate, they could have made an attempt to gather position of the pending claim. However, explanation which is tendered by the applicants is not improbable. In this background, case is made out to condone the delay subject to certain condition. Hence, the application is allowed. Delay of 902 days caused in filing the appeal is condoned subject to condition that applicants pays costs of Rs.5,000/- (Rs.Five Thousand) to the respondents within a period of six weeks from today. CA stands **disposed of**.

CA for Stay :-

Learned counsel appearing for the applicants submits that entire amount as per the award passed by the Tribunal has been deposited with the Registry of this Court.

Said statement is supported by office endorsement. Hence, civil application is allowed in terms of prayer clause 'B' and disposed of.

(S. G. CHAPALGAONKAR, J.)

aaa/-

....