

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4199 OF 2014.

IN/WITH

FIRST APPEAL (ST) NO. 22248 OF 2014.

Mr. Sanjaykumar Pandurang Banur

...Appellant.

Versus

Mrs. Sinabai Shivaji Rathod And Ors.

...Respondents.

Adv. Sarang S. Aradhye a/w Adv. Gauri Velankar & Adv. Shantanu Gurav for the Appellants.

Mr. Ashok B. Tajane for the Respondent Nos. 1 to 5.

Mr. Yogesh G. Thorat for the Respondent No. 6.

Coram : Sharmila U. Deshmukh, J.

Date : February 10, 2025.

P. C. :

1. Interim Application has been preferred seeking condonation of delay of 205 days caused in preferring the present first appeal.

2. Learned Counsel appearing for the Applicant submits that the impugned order was passed on 28th November, 2013 and Application for certified copy was made on 30th November, 2013. He would further submit that thereafter on three to four occasions inquiry was made with the Registry of Labour Court about the certified copy of the proceedings however, the same were not supplied and ultimately on 16th April, 2014, he once again applied for certified copy and the same was delivered on the very same day. He submits that thereafter the Applicant contacted his advocate and decided to prefer the appeal

and the Appeal has been filed in July-2014 resulting in delay.

3. Learned Counsel appearing for the Respondent submits that merely filing of the Application for certified copy without making any efforts to collect the same does not constitute sufficient cause. He submits that even if it is accepted that the certified copy was received on 16th April, 2014, the period of 60 days would expire on 15th June, 2014 and incorrect statement is made in the Application that the Appeal was filed in July-2014 whereas the Appeal has been filed in August-2014 and therefore there is no sufficient cause.

4. I have considered the submissions and perused the records.

5. The Applicant seeks condonation of delay of 205 days caused in preferring the Appeal against the Judgment passed under the Workmen Compensation Act awarding Rs. 3,94,120/- to the legal heirs of the deceased. The impugned Judgment was passed on 28th November, 2013 and it is not the case of the Applicant that he was not aware of the said Judgment. The Application was filed on 13th November, 2013 and it is stated that on three to four occasions Applicant made inquiry with the Registrar and thereafter the fresh application was made on 16th April, 2014 and the certified copy was received. Perusal of the certified copy would indicate that on the same day when the Application was made the copy was ready and was

delivered. It is therefore clear that after certified copy Application was made for the first time on 13th November, 2013, no efforts were made by the Applicant to obtain the certified copies and thereafter when the Application was filed on 16th April, 2014 the certified copies were delivered on the same day which means that they were ready and were not collected. Even after receiving the certified copies on 16th April, 2014 the Appeal has been preferred on 20th August, 2014. In the Application the only explanation which is tendered is that the Applicant has contacted his advocate and decided to prefer the Appeal.

6. The Application had been filed in the casual manner under mistaken belief that the delay of 205 days will be condoned as a matter of course. It needs to be appreciated that the Appellant has been awarded compensation in the year 2013 in a compensation case of 2008 and by reason of delay the aspect of prejudice steps in. The Application is bereft of any details firstly, as to when the inquiries were made by the Applicant with the concerned department and particularly when the Applicant was represented by an Advocate during the proceeding why the Advocate had not taken steps immediately to obtain the certified copies and secondly, the Application is completely silent as to the delay for the period from 16th April, 2014 till 28th August, 2014. The Application demonstrate negligence on part of the Applicant which cannot be condoned.

7. In light of the above, I find no reason to condone the delay of 205 days. Resultantly, the Application stands dismissed.
8. As the Application for condonation of delay is dismissed, the First Appeal does not survive for consideration and the same stand disposed of.
9. This Court is informed that during the pendency of the proceedings, the Applicant No. 4 had expired. The Claimants are only Respondent Nos. 1, 2 and 3.
10. As the amount has been deposited before the Commissioner for Workmen's Compensation let an appropriate application be filed by the Respondent Nos. 1, 2 and 3. If such Application is filed, the Commissioner for Workmen's compensation is requested to decide the same expeditiously and release the amount.

[Sharmila U. Deshmukh, J.]