



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR**

**CIVIL APPLICATION (F) NO. 759 OF 2025**  
**IN**  
**FIRST APPEAL (STAMP) NO. 1059 OF 2025**

(Sultana Parveen Mabud Khan Pathan and another vs. Lomesh Bapurao Pada and another)

*Office Notes, Office Memorandum of Coram,  
appearances, Court's orders of the directions,  
order  
and Registrar's orders.*

*Court's or Judge's*

Mr. Vivek Awchat, Advocate for appellants.  
Mr. P. D. Sharma, Advocate for respondent No.2.

**CORAM : ABHAY J. MANTRI, J.**

**DATE : JULY 03, 2025**

- 1) Heard the learned counsel for applicants and respondent No.2. Though served, no one appears for respondent No.1.
- 2) This is an application to condone the delay of 183 days in the filing of the appeal.
- 3) Learned counsel Mr. Vivek Awchat for the applicants vehemently submitted that on 12/04/2024, a judgment and Award were passed; however, earlier counsel of the applicants had communicated to the applicants about the same in the month of May 2024. He also informed that to prefer an appeal for enhancement of the compensation, a huge court fee is required. However, due to the death of their breadwinner son, they were in trauma, and were facing financial problems, so they could not seek further advice from another counsel. In December 2024, with the help of their friend, they sought advice from counsel in Nagpur. After receiving the counsel's advice, they preferred this appeal along with the present application for

condonation of delay; therefore, he has urged that the application be allowed.

4) Learned counsel Mr.P.D.Sharma, appearing for respondent No.2, strenuously opposed the said application, and the sum and substance of his argument was that the reasons assigned by the applicants in the application that they did not have the required court fees were not sufficient cause to condone the delay. On the contrary, the applicants must explain each day's delay. The contentions in the application are vague and insufficient to condone the delay. Therefore, he urged for the dismissal of the application. To buttress his submissions, he has relied upon the judgment of the Hon'ble Apex Court in **Ajay Dabra vs. Pyare Ram and others with connected petition** reported in **2023(2) Mh.L.J. 651** and pointed out paras 5, 6, 7 and 9 from the said judgment.

5) I have gone through the record, as well as the judgment of the Hon'ble Apex Court.

6) In paras 3 to 5 of the application, the applicants have categorically stated that initially they had been given wrong advice by the earlier counsel at Yavatmal that they required a huge court fee; however, after getting the proper guidance from the counsel at Nagpur, they immediately filed this application along with an appeal memo.

7) In addition to that, in para 6 of the application, the applicants undertake that for the delayed period they would not be claiming any interest on the enhanced compensation amount, if any awarded to them. Their statement is accepted as a statement to the Court.

8) In the judgment cited above, the Hon'ble Apex Court has observed that "***The appellant therein was an affluent businessman and a hotelier*** therefore the Court did not find that the reason assigned by the appellant that ***he was not having sufficient funds to pay the court fees*** and delay of 254 days caused in filing the appeal was sufficient reason to condone the delay." However, the facts in the case at hand differ from those in the above-cited case. The case at hand arises out of the motor vehicle accident, wherein the breadwinner son of the applicants had died, on whom they were dependent. They lost their breadwinner. It is further observed that "*It is true that the Courts should not be pedantic in their approach while condoning the delay, and explanation of each day's delay should not be taken literally, but the fact remains that there must be a reasonable explanation for the delay.*"

9) It is to be noted that the present appeal arises out of the motor vehicle accident, wherein the breadwinner son of the applicants had died. They were in a state of trauma and facing financial constraints; therefore, considering the beneficial and welfare legislation, it would be proper to take a lenient view when considering the delay. In view of the same, in my view, the reasons assigned by the applicants for the delay caused in filing the appeal are just and sufficient. Moreover, it is not the case that the delay was intentional or to protract the proceedings; therefore, in my view, what has been laid down in ***Ajay Dabra's*** case (supra) is hardly of any assistance to the respondent No.2 in support of his contention.

10) At the same time, it is to be noted that due to non-filing of the appeal in time, delay has been caused; therefore, some costs

are required to be imposed for condoning the delay. As such, I do not find substance in the argument of learned counsel for respondent No.2 to dismiss the application as no sufficient cause is explained. On the contrary, if an opportunity is granted to the applicants to contest the matter on merit, it would not cause prejudice to the respondents. But it would help the parties to determine the real controversy between them on its merits.

11) In view of the above discussion, the application is allowed as prayed, subject to the payment of costs of Rs. 5,000/- within four weeks to the High Court Legal Services Sub-Committee, Nagpur, as respondent No. 2 has not claimed any costs despite resisting the application. On deposit of the costs, the appeal be registered accordingly.

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- 1) Heard.
- 2) Issue notice to the respondents.
- 3) Mr. Sharma, learned counsel, waives service of notice for respondent No.2.
- 4) Call for Record and Proceedings.
- 5) List the matter after receipt of the Record and Proceedings.

**(ABHAY J. MANTRI, J.)**