



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

CIVIL APPLICATION (CAO) NO. 447 OF 2025

IN

CIVIL APPLICATION (CAF) NO. 1371 OF 2023

IN

FIRST APPEAL ST. NO. 9476 OF 2023

DEVENDRA S/O RAVINDRA POKE

Vrs.

SMT. RUPALI WD/O PRAVIN KAYUTE AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A. B. Mirza, Advocate for appellant.

Shri Parth Sagdeo, Advocate h/f Shri P. K. Mohta, Advocate for
respondent Nos.1 to 4.

CORAM: ROHIT W. JOSHI, J.

DATE : 05/05/2025.

1. The present application is moved seeking extension of time to deposit costs of Rs.10,000/- imposed by order dated 06/02/2025 as also for modification of direction to deposit 50% of the amount of compensation as awarded in the impugned judgement and award passed by the learned Motor Accident Claims Tribunal, Akola.

2. The applicant is sole respondent in M.A.C.P No.95/2015. The said claim petition was allowed vide judgment and award dated 15/12/2018 directing the present applicant, who is the original respondent in claim petition to pay compensation of Rs.13,32,000/- (Rs.Thirteen Lakhs Thirty Two Thousand only) to the non-applicants – original petitioners along with interest @ 8% per annum from

18/08/2015 i.e. the date of filing of claim petition, till realization of the said amount.

3. The applicant preferred First Appeal under Section 173 of the Motor Vehicles Act, 1988 vide First Appeal St. No.9476/2023. There is delay of around 795 days in filing the said appeal. The Civil Application (CAF) No.1371/2023 was filed seeking condonation of delay. The applicant had also filed Civil Application (CAF) No.1372/2023 seeking stay to the execution of judgment and award passed by the learned Tribunal. Vide order dated 04/05/2023 while issuing notice in the matter, this Court was pleased to grant stay to the execution of the impugned judgment and award dated 15/12/2018 passed by the learned Tribunal imposing a condition that the appellant shall deposit 50% of the amount of compensation within a period of six months, 25% of the amount within a period of three months and remaining 25% of the amount within a period of next three months from the date of order. The applicant did not comply with the said order.

4. The matter was listed before this Court on 05/10/2023. On motion made by the learned counsel for the appellant, time for depositing the amount was extended upto 04/11/2023. However, even then, the applicant did not deposit the amount. The matter was again listed before this Court on 04/11/2023. On the motion made by the leaned counsel for the appellant, time for depositing the amount was extended by a further period of six weeks by way of last chance. However, the applicant did not deposit the amount despite the order dated 04/11/2023. Vide order dated 07/03/2024, this Court has held that the interim order granting stay to the execution

of the impugned judgment and award was a conditional order and in view of non-compliance with the condition imposed, the interim order stood vacated and the application for grant of stay consequently stood dismissed.

5. In this backdrop, the application for condonation of delay came up for hearing before this Court. The application was heard on 06/02/2025. During the course of hearing, a query was made to the learned counsel for the appellant as to whether the appellant was ready to deposit 50% of the amount of compensation as awarded by the learned Tribunal in terms of the impugned judgment and award along with accrued interest. This query was made in the light of earlier order dated 04/05/2023. On taking instructions, learned counsel for the appellant made a categorical statement before this Court that the appellant was ready to deposit 50% of amount of compensation as awarded along with accrued interest. The said statement is recorded in Para No.6 of the order dated 06/02/2025.

6. It needs to be mentioned that the learned counsel for the appellant was requested to seek telephonic instructions from his client in that regard. Perusal of Para No.9 of the present application would indicate that the learned counsel for the appellant had conversation with the appellant over cell phone.

7. It is, thus clear that during the course of hearing on 06/02/2025, a statement is made by the learned counsel on instructions from the appellant. It needs to be mentioned that the statement about the readiness of the depositing the amount

is made in the backdrop of the present case where the appellant had obtained interim order from this Court on the condition of depositing 50% of the amount of compensation and despite obtaining favourable interim order and seeking extension of time for making compliance with the same, on two occasions, the appellant did not comply with the same.

8. In that view of the matter, statement made in the present application that the statement recorded in Para No.6 of the order about the readiness of the appellant to deposit 50% of amount of compensation along with interest is on account of miscommunication between the appellant and his advocate is unbelievable.

9. It needs to be mentioned that the discretion in condoning the delay of around over 2 years was exercised in favour of the appellant in view of the statement made. Since the appellant has stated that he is not ready to stand by the statement made to the Court, the application for modification of order is rejected.

10. As regards the prayer for extension of time to deposit the costs, perusal of the application demonstrates that there is absolutely no reason in the application for seeking extension of time to deposit the amount. The application is absolutely silent about this. Non-compliance with the directions to deposit the costs of Rs.10,000/- also speaks about the conduct of the appellant.

11. In view of the reasons above, the Civil Application (CAO) No.447/2025 stands rejected and consequently, Civil

Application (CAF) No.1371/2023 also stands rejected in view of non-compliance of condition of depositing the costs and 50% of amount of compensation along with accrued interest.

[ROHIT W. JOSHI, J.]

Choulwar