

**IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA**

CMP(M) No. 178 of 2025

Date of decision: 15.07.2026

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Akhil Sood Applicant.

Versus

M/s Hari Durga Travels & others Non-applicants.

Coram

The Hon'ble Mr. Justice Sushil Kukreja, Judge.

¹*Whether approved for reporting?*

For the applicant: Mr. Nimish Gupta, Advocate.

Non-applicants/respondents No. 1 to 3 *ex parte*.

Sushil Kukreja, Judge. *(Oral)*

The instant application has been filed by the applicant, who was petitioner before the learned Trial Court (hereinafter referred to as “the applicant”), under Section 5 of the Limitation Act, 1963 (for short “the Act”) seeking condonation of delay in filing the accompanying appeal under Section 173 of the Motor Vehicles Act, 1988, against award, dated 21.02.2019, in MACP No. 14-B/II/2013/11, passed by learned Motor Accident Claims Tribunal-IV,

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

Kangra at Dharamshala, H.P. (hereinafter referred to as “the learned Tribunal below”), with a prayer to allow the instant application by condoning the delay of 05 year 07 months and 25 days in filing the appeal.

2. As per the applicant, on 17.05.2011, while he was driving motorcycle, having registration No. HP-22A-6663, bus, bearing registration No. DL-IPB-9683, hit against his motorcycle on wrong side and dragged him for about 15 feet on the road. Due to the aforesaid accident, the applicant suffered injuries in his spine and other vital parts of the body, which resulted in 100% permanent disability. At the time of the accident, the applicant was only 21 years of age and he was pursuing his 5th semester in Mechanical Trade from MIT Engineering College, Hamirpur. The applicant further averred that the accident occurred in the month of May, 2011, and the learned Tribunal below passed award on 21.02.2019. The applicant was totally bed ridden and he was facing major mental issues and could not properly revived from the trauma of the accident and he was also undergoing continuous physiotherapy, which had become his necessity. Therefore, the applicant was not aware of the award passed by the learned Tribunal below. The applicant

also averred that he was bed ridden and could not even stand or move from his bed as his lower body was completely senseless and non-operational. The claim petition was filed by his counsel, who obtained his signatures from his house. As per the applicant, he was in continuous pain, discomfort and suffering and he was bright student of mechanical engineering and had a dream to join merchant Navy, but his dream, hopes in life and career shattered with the occurrence of the aforesaid unfortunate accident. The class-fellows of the applicant, who were also pursuing engineering from MIT College, are well placed in reputed companies and earning handsome salaries. It is averred that the applicant was only aware about the pendency of some case, however, he had no information qua the fate of that case. The applicant, after being informed by his friends, asked his counsel, who, in turn, informed him that award had been passed in his favour and execution petition had been filed for recovery of the award amount, which was pending adjudication, for which his counsel took his signatures. Subsequently, the applicant applied for certified copy of the award and he was advised to file an appeal for enhancement of compensation amount. Thereafter, he, through his friends

sent the file to counsel at Shimla in the month of September, 2024. He further averred that his counsel had prepared the appeal, which was sent to the address of the applicant for getting his signatures. He had signed and attested the documents on 3rd October, 2024 and sent the same, through post to main counsel at Shimla. It is averred that the applicant has meager hope of fortune qua his career and earning his livelihood and he is fully dependent on his aged retired parents, who are suffering from various diseases. The applicant will face many hardships if any anything wrong happens to his parents. The applicant averred that the delay in filing the appeal was neither intentional nor deliberate, but for the reasons enumerated above.

3. No reply has been filed on behalf of non-applicants No. 1 and 2, as they have been proceeded against as *ex parte*. Respondent No. 3 contested the application by filing reply, wherein preliminary objection of maintainability of the application was taken. On merits it was averred that the applicant is attempting to creat a sympathetic ground by narrating exaggerated and unsubstantiated facts, which do not constitute sufficient cause for condonation of delay. As per the replying

respondent, the applicant was well aware about the passing of award dated 21.02.2019 by the learned Tribunal below and he was duly represented before the learned Tribunal below through his counsel. Thus, knowledge of the counsel is deemed to the knowledge of the party, therefore, the applicant cannot take advantage of his own negligence or inaction. The medical condition of the applicant cannot be a ground to condone such an inordinate and unexplained delay, as no cogent medical record covering the entire period of delay has been placed on record to substantiate that the applicant was continuously incapacitated from taking legal recourse. The replying respondent prayed that the application be dismissed. However, when the application was taken up today for arguments, none has appeared on behalf of respondent No. 3 and it was proceeded against ex parte.

4. I have heard the learned counsel for the applicant and carefully examined the entire records.

5. It is a settled position of law that every application for condonation of delay is to be decided considering the facts and circumstances of that case only and there cannot be a straitjacket formula or rule either for condonation of delay or to reject the condonation. The only

requirement for condonation of delay is that whether there is 'sufficient cause' for the litigant not to initiate the litigation in prescribed time of limitation. If sufficient cause is shown, delay can be condoned and that term 'sufficient cause' is elastic enough to enable the Courts to apply the law in a manner which subserves ends of justice and that there cannot be hard and fast rule laid down for condonation of delay. In the case of Collector, ***Land Acquisition, Anantnag and Another vs. Mst. Katiji & ors.***, reported in **(1987) 2 SCC 107** the term 'sufficient cause' has been explained by the Apex Court to be adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice. The Apex Court in the particular case had directed a liberal approach to be adopted on principle and had observed that when substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred. He further submits that there can be no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. The relevant portion of the judgment (supra) is reproduced as under:

"3. The legislature has conferred the power to condone delay by enacting section 5 of the Indian Limitation Act of 1963 in order to enable the courts to do

substantial justice to parties by disposing of matters on 'merits'. The expression "sufficient cause" employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice-that being the life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appeal to have percolated down to all the other courts in the hierarchy. And such a liberal approach is adopted on principle as it is realized that:

- 1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.*
- 2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.*
- 3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.*
- 4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.*
- 5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.*
- 6. It must be grasped that judiciary is respected not on account of its powers to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so."*

... ..

6. In the judgment rendered by the Hon'ble Apex Court in ***Ram Nath Sao @ Ram Nath Sahu & Ors. vs.***

Gobardhan Sao & Ors., (2002) 3 SCC 195, wherein, at paragraph-12, it has been held that "sufficient cause" within the meaning of Section 5 of the Act or Order 22 Rule 9 of the Code or any other similar provision should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bona fides is imputable to a party. The relevant portion of the judgment (supra) is reproduced as under:

"12. Thus it becomes plain that the expression "sufficient cause" within the meaning of Section 5 of the Act or Order 22 Rule 9 of the Code or any other similar provision should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bona fides is imputable to a party. In a particular case whether explanation furnished would constitute "sufficient cause" or not will be dependent upon facts of each case. There cannot be a straitjacket formula for accepting or rejecting explanation furnished for the delay caused in taking steps. But one thing is clear that the courts should not proceed with the tendency of finding fault with the cause shown and reject the petition by a slipshod order in over- jubilation of disposal drive. Acceptance of explanation furnished should be the rule and refusal, an exception, more so when no negligence or inaction or want of bona fides can be imputed to the defaulting party. On the other hand, while considering the matter the courts should not lose sight of the fact that by not taking steps within the time prescribed a valuable right has accrued to the other party which should not be lightly defeated by condoning delay in a routine-like manner. However, by taking a pedantic and hypertechnical view of the matter the explanation furnished should not be rejected when stakes are high and/or arguable points of facts and law are involved in the case, causing enormous loss and irreparable injury to the party against whom the lis terminates, either by default or inaction and defeating valuable right of such a party to have the decision on merit. While considering the matter, courts have to strike a balance between resultant effect of the order it is going to pass upon the parties either way."

7. As per the Judgment of the Apex Court in the

case of ***Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy & ors.***, reported in **(2013) 12 SCC 649**, that the term 'sufficient cause' should be understood in proper spirit, since the term is basically elastic and has to be applied in the proper perspective, that substantial justice being paramount and pivotal, the technical considerations should not be given undue and uncalled for emphasis. The Apex Court had also held that the adherence to strict proof should not affect public justice or cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate, there is no real failure of justice. The Apex Court had also noticed the distinction between inordinate delay and a delay of short duration of few days and had observed that the second calls for a liberal delineation.

8. Thus, the law on the issue can be summarized to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation and "sufficient cause" should receive a liberal construction so as to advance substantial justice. The

Apex Court has time and again reiterated that there should be a liberal, pragmatic and justice-oriented approach when dealing with an application for condonation of delay and the issue of limitation is to be taken liberally and not to be taken in hyper technical manner.

9. In the instant case, the case of the applicant is that the delay in filing the appeal has occurred, as after the accident, the applicant has suffered permanent disability to the extent of 100% and he was bed ridden and could not even stand or move. The applicant was in extreme trauma and depression post accident that he could not think rational or contemplate like other able normal persons can do to fight for his legal right and adequate compensation or irreparable loss of enjoyment of life, marital bliss, amenities of life etc.. It was only when the applicant was apprised by his counsel that execution petition has been filed for recovery of the award amount, for which the counsel took his signatures, the applicant applied for certified copy of the award and was given opinion to file an appeal for enhancement of the compensation amount, he filed the present appeal. Therefore, in the opinion of this Court, the delay, as occurred, was neither intentional nor willful, but was beyond

the control of the applicant and deserves to be condoned in the interest of justice. The application is duly supported by an affidavit of the applicant, as well as the documents pertaining to his medical history.

10. In ***Inder Singh vs. The State of Madhya Pradesh, 2025 SCC Online SC 600***, the Hon'ble Supreme Court held that if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation. The relevant para of the judgment (supra) is as under:

"14. There can be no quarrel on the settled principle of law that delay cannot be condoned without sufficient cause, but a major aspect which has to be kept in mind is that, if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation."

11. Therefore, applying the law laid down by the Apex Court to the facts of the present case, this court is satisfied that the applicant has been able to render a satisfactory explanation for condonation of delay, as occurred in filing the present appeal. This Court is also of the view that in case delay is not condoned, the same would result in miscarriage of justice, as the applicant has suffered permanent disability to the extent of 100% and he has filed the appeal for enhancement of compensation on account of injuries and disability suffered by him, for which he remained

bed ridden for a considerable time, in a motor vehicle accident, involving bus bearing registration No. HP-22A-6663, which allegedly took place due to the rash and negligent driving of respondent No. 2-Shri Shiv Kumar (driver of the bus).

12. Accordingly, for the reasons aforesaid, the present application is allowed and delay in filing the appeal is condoned.

(Sushil Kukreja)
Judge

15th July, 2026
(virender)