

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

FAO No.10299 of 2014 (O&M)

Date of decision : 15.11.2016

Manvir Singh Dhillon

.....Appellant

Versus

The Oriental Insurance Company and another

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. G.S. Sidhu, Advocate for applicant-appellant.
 Mr. Shamsheer Kaur, Advocate for respondent No.1.
 Mr. Rose Gupta, Advocate for respondent No.2.

DARSHAN SINGH, J.

The present appeal has been preferred by Manvir Singh Dhillon, the owner-cum-driver of the jeep bearing registration No.PB-03P-3557, who was respondent No.1 in the claim petition, against the award dated 09.10.2012 passed by learned Motor Accidents Claims Tribunal, Bathinda (hereinafter called the “Tribunal”), vide which respondent No.2-claimant Gurjant Singh has been awarded compensation to the tune of Rs.90,000/- on account of the injuries suffered by him in this accident.

2. The present appeal has been preferred by the appellant to assail the award of compensation as well as the grant of recovery rights against the appellant to respondent No.1-Insurance Company.

3. Along with the appeal, the appellant has also filed an application CM No.28369-CII of 2014 under Section 5 of the Limitation

Act for condonation of delay of 710 days in filing the present appeal.

4. Learned counsel for the applicant-appellant contended that the delay in filing the appeal has occurred as Mohan Singh Dhillon the father of the appellant was a heart patient and he remained on long treatment, the detail of which is given in Para No.2 of the application. He further contended that the appellant was the only male member of the family. He has to earn the livelihood for the family and to raise the funds for taking the care of his ailing father. Due to this reason, he could not file the appeal in time. Thus, he contended that the said delay is neither intentional nor willful and has occurred due to the reasons which were beyond the control of the appellant.

5. On the other hand, learned counsel for the respondents contended that there is long delay of about two years in filing the appeal. Mere this fact that the father of the appellant was ill is no ground to condone such a long delay. Moreover, even as per Para No.2 of the application his father was not under treatment after August 2009 to February 2013. Thus, they contended that there is no satisfactory explanation of the delay in filing the present appeal. They further contended that the present appeal has been filed with *mala fide* intention only to obstruct the implementation of the recovery rights.

6. I have duly considered the aforesaid contentions.

7. The only ground taken by the applicant-appellant for condonation of long delay of 710 days in the present case is that his father was a heart patient and was seriously ill. He remained under treatment for a

long period. He is the sole earning member of the family who has to take care of his father. There is no dispute with the proposition of law that there should be liberal approach to condone the delay and expression “sufficient cause” should be given a liberal interpretation to ensure that substantial justice is done. But, this proposition is applicable only in those cases, where negligence, inaction or lack of *bona fide* cannot be imputed to the party concerned. The law of limitation has to be applied with all its rigour when the statute prescribes a particular period of limitation. It may harshly affect a particular party. Learned counsel for the appellant has pleaded that father of the appellant was heart patient and remained ill continuously for a long period and appellant is the only earning male member of his family. But, the delay in filing the appeal cannot be condoned simply on the ground of equity in the absence of any “sufficient cause”. In case ***Basawaraj and another Vs. Special Land Acquisition Officer 2014(1) RCR (Civil) 603***, the Hon’ble Supreme Court has laid down as under:-

“12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. “A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim “*dura lex sed lex*” which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.”

8. The statute of limitation is founded on public policy. Its aim is to secure peace in the community. An unlimited limitation would lead to sense of insecurity and uncertainty.

9. The Hon'ble Apex Court in case ***Basawaraj and another Vs. Special Land Acquisition Officer*** (supra), while dealing with the scope of "sufficient cause" has laid down as under:-

"9. Sufficient cause is the cause for which defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of *bona fide* on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The court has to examine whether the mistake is *bona fide* or was merely a device to cover an ulterior purpose. (See: ***Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee & Ors.***, AIR 1964 SC 1336; ***Lala Matadin v. A. Narayanan***, AIR 1970 SC 1953; ***Parimal v. Veena @ Bharti*** AIR 2011 SC 1150; and ***Maniben Devraj Shah v. Municipal Corporation of Brihan***

Mumbai AIR 2012 SC 1629.)”

10. As per the ratio of law laid down by the Hon’ble Apex Court in this authority, sufficient cause is the cause for which the party concerned could not be blamed and that party should not have acted in negligent manner or there was a want of *bona fide* on his part. The Court has to examine whether the mistake is *bona fide* or was merely a device to cover an ulterior purpose.

11. In case ***Amalendu Kumar Bera and others Vs. The State of West Bengal 2013(2) RCR (Civil) 534***, the Hon’ble Apex Court has held that the delay in filing the appeal or revision cannot and shall not be mechanically considered and in the absence of ‘sufficient cause’ delay shall not be condoned. In case of serious negligence, the delay should not be condoned. The Hon’ble Apex Court in case ***Tribhuvanshankar Vs. Amrutlal, 2014(1) RCR (Civil) 206***, has laid down that the fundamental policy behind the limitation is that if a person does not pursue his remedy within the stipulated time-frame, the right to sue gets extinguished.

12. In view of the aforesaid legal position, we have to examine the case in hand. The impugned award in this case was passed on 09.10.2012. The appellant was a contested party. The present appeal has been filed in December 2014. The perusal of Para No.2 of the application shows that the father of the appellant was admitted in Daya Nand Medical College and Hospital on 28.07.2009 and was discharged on 06.08.2009 *i.e.* before the passing of the impugned award. Thereafter, he had visited that hospital for monitoring and medical supervision. He underwent endoscopy

on 16.02.2013 and echocardiography on 22.06.2013. It is not disputed that no hospitalisation was required for endoscopy and echocardiography. Moreover, even as per Para No.2 of the application the father of the appellant had not received any indoor treatment with effect from 06.08.2009 to 11.06.2014. The present appeal was required to be filed within 90 days from the date of award *i.e.* 09.10.2012. At that time, the father of the appellant was not hospitalised and appellant had sufficient time to prefer the appeal. Mere this fact that his father was receiving outdoor treatment like endoscopy and echocardiography is no ground to prevent the appellant from filing the present appeal.

13. Thus, there is no escape from the conclusion that the delay in filing the present appeal has resulted due to total want of *bona fide*, deliberate inaction or negligence on the part of the appellant.

14. It is also evident from CM No.28370-CII of 2014 filed by the appellant for seeking exemption from depositing the statutory amount of Rs.25,000/- that the respondent-Insurance Company has already paid the amount of compensation to the claimant, so obviously now the Insurance Company might be going to recover the said amount from the appellant, which shows that the application moved by the appellant for condonation of delay is not *bona fide*, rather it is a move on the part of the appellant to obstruct the implementation of the recovery rights granted against him to the Insurance Company. Thus, negligence, inaction or want of *bona fide* is clearly imputable to the appellant.

15. Thus, the appellant has not been able to establish the

sufficient cause for condonation of long delay of 710 days in filing the present appeal.

16. Consequently, the present application has no merits and the same is hereby dismissed.

17. The appellant has also not deposited the statutory amount of Rs.25,000/- as required under Section 173 of the Motor Vehicles Act, 1988. The appellant has moved an application CM No.28370-CII of 2014 for seeking exemption from depositing the said amount. No reason has been mentioned in the application to seek the exemption from depositing the statutory amount to entertain the appeal. So, the application moved by the appellant for seeking exemption to deposit the said statutory amount has also no merits and the same is hereby dismissed.

18. Thus, keeping in view my aforesaid discussion, as the appeal is barred by limitation and appellant has also not deposited the statutory amount of Rs.25,000/-, so the present appeal has no merits and the same is hereby dismissed.

15.11.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No