

**352 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

FAO-1798-2004 (O&M) and  
XOBJC-143-CII-2017  
Date of decision: 19.09.2017

Jasbir Kaur and others

.... Appellants

Versus

Jeet Singh and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present : Mr.Onkar Singh, Advocate  
for the appellants.

Mr. Ashwani Talwar, Advocate  
for respondent No.3.

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**Avneesh Jhingan, J.**

The present appeal is filed against the award dated 08.04.2003 passed by Motor Accidents Claims Tribunal, Gurdaspur (hereinafter referred to as the 'Tribunal').

This case was a burnt case and the record has been reconstructed from the salvaged record and the copies supplied by the counsel subject to just exception.

Learned counsel for the claimants on instructions from the appellants seeks to withdraw the present appeal.

The present appeal is dismissed as withdrawn as prayed for.

It may be mentioned that during the pendency of the appeal, the Insurance Company has filed cross-objections along with the application for

condoning the delay of 922 days.

Inspite of the fact that the main appeal has been withdrawn by the claimants but these cross-objections have to be dealt with.

Before considering the merits of the cross-objections, condonation of delay is to be dealt with. The application filed prays for condoning the delay of 922 days.

Before proceeding with the issue of delay, certain facts are required to be noted. The present appeal was filed in the year 2004 which was admitted long back. The record of the case was burnt in the fire incident that had occurred in the High Court. The said record was reconstructed in 2014 and actual date of hearing was fixed for 15.01.2015.

The Insurance Company has not denied the fact that notice of this appeal was issued to them much before 2015. Even after 2015, the Insurance Company took no steps to challenge the award by way of cross-objections. Now in 2017, when the case came up on 01.08.2017, the matter was heard to some extent and was adjourned, thereafter the cross-objections were filed. The grievance of the Insurance Company is that amount awarded to the claimants is in little excess than what should have been granted under the structural formula of Schedule II of the Motor Vehicles Act.

The objection raised in the cross-objections is hyper-technical in nature. Without going into the merits of the cross-objections, a perusal of the application will show that there is no explanation given for the said delay. The Insurance Company was put to notice much earlier to 15.01.2015. There is no explanation or discussion with regard to period

earlier to 2015. Be that as it may, even after 15.01.2015 not even a single day's delay has been explained rather the only grounds taken are that as under :-

*“4. That the appeal as filed by the claimants is yet to be adjudicated. In case the present application for condonation of delay is accepted, the present cross-objections shall also be admitted to be heard with the appeal of the claimants and no prejudice shall be caused to the claimants or any other party and the entire lis shall be decided in accordance with law.*

*5. That the delay is bona fide and unintentional and even otherwise, it is not in the interest of the appellant/applicant to file the appeal late.”*

A perusal of the above paragraphs will show that the only ground was that the appeal is to be adjudicated and if the cross-objections are heard, no prejudice would be caused to the claimants. The said explanation is not a 'sufficient cause' as required under Section 5 of the Limitation Act. Taking the explanation from another angle, there is no adjudication of the appeal filed by the claimants as same has been withdrawn. The foundation of the application of Insurance Company, itself is eroded.

The law is well settled that for condonation of delay day to day

explanation is not required to be given. This proposition cannot be taken to extreme that delay is to be condoned even if there is no sufficient cause.

Hon'ble Apex Court has held that in **Oriental Aroma Chemical Industries Ltd. vs. Gujarat Industrial Development Corporation and another, 2010 (5) SCC 459** held as under :-

*8. We have considered the respective submissions.*

*The law of limitation is founded on public policy.*

*The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time. The expression "sufficient cause" employed in [Section 5](#) of the Indian Limitation Act, 1963 and similar other statutes is elastic enough to enable the courts to apply the law in a meaningful manner*

*which sub serves the ends of justice. Although, no hard and fast rule can be laid down in dealing with the applications for condonation of delay, this Court has justifiably advocated adoption of a liberal approach in condoning the delay of short duration and a stricter approach where the delay is inordinate.”*

Similarly, the decision of Division Bench of this Court in **Municipal Committee (now Municipal Corporation), Bathinda vs. Bachan Singh through his LRs and another, 2017(3) R.C.R. (Civil) 145** (P&H) (DB) refused to condone the delay of 1760 days and as the explanation was not satisfactory it was held in para 10 and 11, which are reproduced as under :-

*10. Adverting to the factual matrix in this case seeking condonation of inordinate delay of 1760 days in filing and 85 days in refiling the appeal, we do not find any merit in the same. The question regarding whether there is sufficient cause or not depends upon each case and primarily is a question of fact to be considered taking totality of events which had taken place in a particular case. In the present case after appreciating the matter it cannot be said that there was sufficient cause for condonation of delay. The learned Single Judge*

*decided the matter on 11.5.2011 and the appeal was required to be filed within the stipulated period of limitation of thirty days. But the appellant has filed the appeal on 5.4.2016 and refiled on 10.8.2016, after a colossal delay of 1760 days. The explanation of the appellant praying for condonation of delay in filing and refiling the appeal, as noticed hereinabove, is bereft of sufficient cause for delay caused in filing the appeal. Moreover, even after the judgment dated 26.11.2014 was passed accepting the appeal against the judgment on the basis of which order was passed in the present case, the Letter Patent Appeal was filed on 5.4.2016, i.e., after about one year and four months. There is no satisfactory explanation for this delay as well. The Government department is supposed to pursue its litigation with due diligence. A stale matter cannot be revived by approaching the Court belatedly.*

*11. In view of the above, finding no merit in the applications for condonation of 1760 days' delay in filing and 85 days' in refiling the appeal, the same are hereby dismissed and consequently, the appeal is dismissed as time barred.*

The above authorities have laid down the law that the parameters for condoning the delay would be liberal in cases where there is a short period of delay and approach would be stricter where the delay is substantial. In the present case, the delay of/ 922 days is substantial.

As discussed above, the delay is rather much more than 922 days. The delay is also on the part of the Insurance Company who has battery of lawyers at its disposal to deal with legal issues. In such circumstances, delay of 922 days cannot be condoned. The cross-objections are dismissed as barred by limitation.

The net result is that the appeal of the claimants is dismissed as withdrawn and cross-objections are dismissed as time barred.

**(AVNEESH JHINGAN)**  
**JUDGE**

**19.09.2017**

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Note:

1. Whether the order is speaking/reasoned: Yes

2. Whether the order is reportable : Yes