

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

**FAO No. 231 of 2011 (O&M)
Date of Decision:- 16.11.2017**

Reliance General Insurance Co. Ltd.

....Appellant

Versus

Jai Krishan & Ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. Subhash Goyal, Advocate, for the appellant.

Ms. Puja Chopra, Advocate, for respondent No.7.

AVNEESH JHINGAN, J. (Oral)

The present appeal is against award dated 01.12.2009 passed by the Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal').

The said appeal is accompanied by an application under Section 5 of the Limitation Act, 1963 for condoning a delay of 310 days.

The application only put forth an explanation that the papers pertaining to the claim petition were misplaced in the office of the appellant and appeal was filed only after locating the same. It has further been stated that the offices of the applicant-company are located at different places where from the opinion is sought and matter is discussed at various levels and ultimately appeal is filed.

The explanation put forth is not satisfactory. These are standard explanations put forth by the Government Departments and by institutions who have their working like the government departments.

There are no details given in the application as to when the copy of award

was received and what were the steps and the stages it had to cross. There is no detail that when and at which office the file was misplaced and when it was located. Apart from the bald statements there is no supporting evidence. The delay is not of short period but of 310 days. It has to be kept in mind that filing of this appeal effects the rights of the poor claimants who have lost their family member in the accident.

The Hon'ble Apex Court in ***Oriental Aroma Chemical Industries Ltd. Vs. Gujarat Industrial Development Corporation, 2010(5) SCC 459*** has 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.”

As per the above decision, it has been held that a liberal

approach should be adopted where the delay is of a shorter period and a strict and more conscious approach should be adopted where the delay is inordinate.

The other angle to be kept in mind is that the legislature in its own wisdom has not provided any separate period of limitation for the insurance companies under the Motor Vehicles Act, 1988.

This Court in **State of Punjab & Ors. Vs. Smt. Shindo & Anr., 2017(1) S.C.T 180** has held as under:-

*“5. In view of the **Chief Post Master General & Ors. Vs. Living Media India Ltd. & Anr., 2012(2) SCC (Crl.) 580**, the Hon'ble Supreme Court held as under:-*

13) In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

6. In view of the aforesaid extracted observations and the

reasons given in the application, where the file has shuffled between one law officer and another three times over, before it get approval of the Advocate General would be no ground to condone the delay as we do not construe it to be a sufficient cause. The State as a litigant cannot be treated differently than an ordinary litigant by applying different yard sticks in the matter of condonation of delay or otherwise, particularly when it is singularly the largest litigant before the Courts and propounds a litigation policy to curtail its own lapses and reduce litigation. Even otherwise, we find that equities have been well settled as workmen lost their engagement in 2001 and we are informed that at least two of them have expired.

7. For the aforesaid reasons, we do not find any reason to condone the delay. Applications seeking condonation of delay are dismissed.”

As per the above decision, merely because there are number of stages for opinion and to decide whether to file appeal or not, will not be a ground for condonation of delay.

This Court in **Municipal Committee (Now Municipal Corporation), Bathinda Vs. Bachan Singh, 2017(3) R.C.R. (Civil) 145**

has held 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 Court had dismissed the application for condonation of delay where there was no satisfactory explanation given.

The Hon'ble Apex Court in **Pundlik Jalam Patil (D) by Lrs vs Exe. Eng. Jalgaon Medium Project & Anr., 2008(17) SCC 448,** has held as under :-

*"It was its duty to prefer appeals before the court for consideration which it did not. There is no explanation forthcoming in this regard. The evidence on record suggest neglect of its own right for long time in preferring appeals. The court cannot enquire into **belated and stale claims** on the ground of equity. Delay defeats equity. The court helps those*

who are vigilant and `do not slumber over their rights.'

The Hon'ble Apex Court in case **Basawaraj and another v. 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.”

In ***P.K. Ramachandran v. State of Kerala & Anr., 1997(4) R.C.R.(Civil) 242 : AIR 1998 SC 2276***, the Apex Court while considering a case of condonation of delay of 565 days, wherein no explanation much less a reasonable or satisfactory explanation for condonation of delay had been given, held as under :-

"Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds."

In ***M/s. Rup Diamonds & Ors. v. Union of India & Ors., AIR 1989 SC 674***, this Court considered a case where petitioner wanted to get the relief on the basis of the judgment of this Court wherein a particular law had been declared ultra vires. The Court rejected the petition on the ground of delay and laches observing as under :-

"There is one more ground which basically sets the present case apart. Petitioners are re-agitating claims which they have not pursued for several years. Petitioners were not vigilant but were content to be dormant and chose to sit on the fence till somebody else's case came to be decided."

The Hon'ble Apex Court in case ***Tribhuvanshankar v. 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.

As discussed above in the present case apart from the bald statement there is no satisfactory explanation for condoning the inordinate delay of 310 days in filing the appeal.

The application is accordingly, dismissed.

In view of dismissal of application for condonation of delay main appeal also stands dismissed.

November 16, 2017
tripti

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No