

In the High Court of Punjab and Haryana at Chandigarh

**CM-9356-CII-2015 IN/AND
F.A.O No. 3120 of 2015
Date of Decision: 23.10.2017**

Rajinder Singh and another

.....Appellants

Versus

Satish Meena and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Narender Singh, Advocate
for the applicants-appellants.

None for respondent No. 1.

Ms. Vandana Malhotra, Advocate
for M/s Cholamandalam General Insurance Co. Ltd.

Mr. Ram Bilas Gupta, Advocate
for respondents No. 4 and 5.

Mr. D.K.Dogra, Advocate
for United India Insurance Co. Ltd.

ANITA CHAUDHRY, J

This appeal has been filed by the owner-driver disputing the award vide which the insurance company has been given right to recover the amount from them.

Along with the appeal an application had been filed under Section 5 of the Limitation Act seeking condonation of delay of 871 days. The applicants-appellants have submitted that the accident had taken place in July 2010 and seven claim petitions had been filed by different claimants

and all the claim petitions were consolidated and were disposed of by a

common award but the Motor Accident Claims Tribunal gave the recovery rights to the insurance company holding that appellant No. 2 was holding two licences at the same time. It was pleaded that he had a valid licence which was issued by the Registering Authority, Nagaland. It was pleaded that he had filed FAO No. 728 of 2013 and it was some time later when he contacted the counsel and he came to know that separate appeals were to be filed with respect to each case. It was pleaded that the appellants were poor villagers and were not aware of the technicalities of law and the insurance company had not initiated any recovery proceedings and they *bonafidely* believed that since they have challenged the award in one appeal, they were not required to file other appeals and, therefore, delay of 871 days took place.

Notice of the application seeking condonation of delay was issued but it was later found out that the applicants-appellants had not deposited the statutory amount of Rs. 25,000/-. An order in this regard was passed on 18.2.2016. The applicants-appellants sought extension of time and deposited the amount subsequently.

I have heard both the sides.

The submission on behalf of the applicants-appellants is that the applicants-appellants were under the impression that only one appeal was to be filed and the first appeal was filed in 2013 and the applicants-appellants are illiterate and were ignorant of law and did not know that they were to file appeals separately since there were seven claim petition which were decided by a common award.

The submission on behalf of the respondents is that ignorance

applicants-appellants were aware of the order which was passed, therefore, they had filed one appeal and that appeal was also filed with a delay of 67 days. It was urged that the applicants-appellants did not want to deposit the statutory amount of Rs. 25,000/-, therefore, in order to avoid it they devised this mode but ultimately they did file the appeal but they do not have a sufficient cause and the delay should not be condoned.

The present appellants had filed another appeal i.e. FAO-728-2013 which was fixed for today. That appeal on merits has been dismissed vide separate order of today.

The law on the issue can be summarised 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. In case a party is found to be negligent, or for want of *bona fide* on his part on the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by the Court in regard to condonation of delay. In case there are no sufficient grounds to prevent a litigant to approach the Court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.

The Supreme Court in ***Basawaraj and Ors. Vs. The Special***

Land Acquisition Officer AIR 2014 SC 746 has reiterated the fact that once
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there is inaction and/or want of *bona fide*, and/or negligence, then, delay cannot be condoned.

The plea taken by the appellants that the delay is unintentional cannot be accepted. A right has come to be vested in the respondent which cannot be taken away. There is absolute no cogent reasons. The appellants have failed to disclose any reason much less sufficient reason. The delay is inordinate and a stricter approach has to be adopted. There is no ground to condone the delay of 871 days in bringing this appeal.

Consequently, the application for condonation of delay is dismissed. The appeal brought up by the appellants is consequently held to be time barred and is also dismissed.

(ANITA CHAUDHRY)
JUDGE

October 23, 2017
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No