

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

Date of decision: 16.08.2017

FAO No.4827 of 2017 (O&M)

Bajaj Allianz General Insurance Co. Ltd. ...Appellant

Vs.

Amritpal Singh @ Happy & others ...Respondents

FAO No.4829 of 2017 (O&M)

Bajaj Allianz General Insurance Co. Ltd. ...Appellant

Vs.

Amritpal Singh @ Happy & others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Vandana Malhotra, Advocate, for the appellant.

RAJIV NARAIN RAINA, J.

This order shall dispose of aforementioned two appeals filed by Bajaj Allianz General Insurance Co. Ltd. together with CM No.14484-CII of 2017 in FAO No.4827 of 2017 and CM No.14488-CII of 2017 in FAO No.4829 under Section 5 of the Limitation Act for condoning the delay of 16 and 28 days respectively in filing the appeals.

Delay of 16 or 28 days may not be tall or alarming, but at the same time this Court cannot ignore the principle involved in condoning

delays in approaching Court even being as liberal as law permits, which is that there should be sufficient cause and reasonable explanation for the delay which is condonable and acceptable by any person of ordinary intelligence accepting the reasons which have caused the delay. But when I look at Para.2 of the application, I find that the only reason given to justify the delay in filing the appeal is the casual lament that the Head Office of the appellant – Company is in Pune and for taking a decision the delay is involved because the file has to go through many channels before approval can be granted for filing the appeal. How the file moved from Pune to Chandigarh and where were the inevitable bottlenecks in a private company and other material particulars to explain with dates and noting sheets/ correspondence inter office to evoke a favourable response from Court is completely missing in the applications. The appellant expects that such a defence will be readily swallowed and accepted by this Court, perhaps labouring under the wrong impression that delay of mere 16 and 28 days will inevitably and always be condoned even if the reasons for delay are weak.

Firstly, I am not dealing with a case involving a sluggish department of the Government who are no longer spared for delayed approach. One is dealing with an appellant, which is a private sector insurance company which is not bogged down like the State machinery and can act swiftly.

If it chooses to do business in Punjab, then it must gear itself-up to meet the challenges of litigation in this region which it might face and keep its house in order. It is asserted that the appellant company has an office at Chandigarh, but they would need to re-enforce the company commanders so that delays are not caused in litigation. And if they do for

reasons beyond their control as fully explained they might persuade the Court to condone the delay in filing the appeal.

The underlying principle arising out losing party not filing an appeal within limitation is that the award-holder gets valuable rights to the fruit of litigation. In a case of compensation the pain of claimants fighting for their rights in court is untold. When an appeal is not filed within limitation, even missing by a day, they remain sanguine that they are safe from continued litigation. It is not always incumbent for the Court to look at the merits of the appeal, as counsel argues vehemently that they have good case. Many good cases lie justifiably buried in orders dismissing applications for condoning delay in presentation of appeals.

Taking the usual stock defences of red tape and file pushing from one desk to the other in various offices before forming opinion to appeal is not appreciated by Court, and which type of casual explanations are not sufficient to mechanically, lightly and in an off-hand manner condone delay; is a defence severely criticized, strongly deprecated and rejected by the Supreme Court, time and again, with the most noticeable dictum in Chief Post Master General v. Living Media (India) Ltd., (2012) 3 SCC 563.

I would, therefore, have no proper occasion to enter upon the merits of these cases as ardently urged by Ms. Vandana Malhotra for the appellant for considerable time at the hearing especially when the contents of the applications are found terribly weak an explanation to accept as genuine and bona fide reasons for the delay in approaching Court beyond limitation and hence I would dismiss the applications for condoning the

delay in filing the appeals. As a result, entertainment of the appeals is declined.

16.08.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>Yes</i>