

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5438 of 2017 (O&M)
Date of Decision: 21.08.2017

National Insurance Company Limited

... Appellant

Versus

Bharat Bhushan and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ram Avtar, Advocate,
for the appellant.

RAJIV NARAIN RAINA, J.(Oral)

There is a delay of 24 days in filing the appeal by the Insurance Company. The explanation offered is as follows:-

“2. That the appeal pertains to the Divisional Office, Karnal and working under the control of Regional office at Chandigarh. The decision to challenge the award in appeal was to be taken by the competent authority, Regional Office, Chandigarh. The claim file was examined by the Divisional Office, Karnal and also sought legal opinion from dealing advocate and then the file was referred to Regional Office, Chandigarh for filing appeal.

3. That after receipt of claim file, the legal department sought legal opinion from local advocate and also gone through the complete case file and in view of the recommendations of department and legal opinions of advocate, it was decided by the competent authority to file appeal against the order dated 28.02.2017 passed by MACT, Karnal. Thereafter, the file was handed over to counsel for filing appeal. The delay has caused due to process of file from one office to another and lower hierarchy to higher hierarchy.

4. That the delay is neither wilful nor intentional but has been caused due to the position explained above.”

I hardly find the above explanation to be sufficient cause for

delay in filing the appeal by the Insurance Company which has all the wherewithal and the counsel at their command to file appeals within the prescribed period of limitation.

At the same time this Court cannot ignore the principle involved in condoning delays in approaching Court in appeals being as ever liberal as law permits, which consideration instructs that there should be “sufficient cause shown” and reasonable explanation for the delay which is condonable and acceptable by any person of ordinary prudence for accepting the reasons which have caused the delay being unintentional and beyond control.

The Supreme Court in Office of the Chief Post Master General & ors. v. Living Media India Ltd. & Anr., 2012(2) S.C.T. 269 has observed 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 bona fide 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 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.”

In view of the above, the application for condonation of delay

in filing the appeal as well as main appeal is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

21.08.2017
manju

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>