

**C.M. No. 19106-CII of 2017in/and
FAO No.5890 of 2017**

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

**C.M. No. 19106-CII of 2017in/and
FAO No.5890 of 2017**

Date of Decision: 30.11.2017.

Lakshyapreet Kaur (minor) (through her father and
natural guardian Sh.Gurinder Singh)

.....Appellant

Versus

Sharnjit Ram and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

**Present: Mr. Ishan Cooner, Advocate
for the applicant-appellant.**

AVNEESH JHINGAN, J.

The present appeal has been filed against the award dated 01.05.2015 passed by the Motor Accidents Claims Tribunal, Sahibzada Ajit Singh Nagar (Mohali) (for short 'the Tribunal').

Lakshyapreet Kaur, aged 13 years, met with a motor vehicular accident on 13.10.2013. She suffered injuries including temporary disability of 20%. In the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), the Tribunal awarded a sum of Rs. 2,85,100/- alongwith interest at the rate of 6% per annum.

Aggrieved of the said award, the present appeal has been filed for enhancement of compensation. The appeal is accompanied by an application filed under Section 5 of the Limitation Act, for condonation of delay of 669 days in filing the appeal.

The explanation put forth for condonation of delay is reproduced below:

"That the appellant-claimant is a minor and is dependent

upon her father and the claim petition before the Ld. Motor Accident Claim Tribunal was filed through her father being natural guardian.

That the appellant-claimant is totally dependent upon her father being minor could not arrange necessary documents, expenses and engage counsel for filing the appeal for further enhancement.

That the appellant-claimant received the certified copy of the impugned award from her counsel on 26th May, 2017 and thereafter collected other necessary documents and expenses for filing the appeal which resulted into delay in filing the same."

The sufficient cause put forth is that the claimant is a minor and is totally dependent upon her father and she could not arrange for necessary documents, expenses and engage a counsel. It was further averred that the certified copy of the impugned award was received from her counsel on 26.5.2017.

It would be pertinent to note that the claim petition was filed through her father. The said claim petition was duly pursued and was partly allowed. Now the present appeal has also been filed through her father only as she is still minor.

In such circumstance, the explanation put forth is not acceptable. The father was pursuing the claim petition and the present appeal has also been filed by the father. There is no question of minor making arrangement for the necessary documents, expenses and to engage a lawyer. The explanation put forth is not satisfactory and it appears to be mere device to cover up the negligence in filing the appeal.

There is no explanation that why the copy of award was

it is evident that the certified copy was delivered on 11.5.2015. No details have been given that in pursuance to the award, when applicant received the compensation. It has not been stated that till May 2017, the applicant had not received the amount of compensation. The said details have been intentionally withheld as it would show that copy of the award was received by the applicant much earlier.

Though a liberal approach should be adopted for condonation of delay but the law is well settled that the delay should not be mechanically condoned. It has further been held that in absence of satisfactory explanation, the delay should not be condoned.

Reliance in this regard has been placed upon the decision of this Court in **Municipal Committee (Now Municipal Corporation), Bathinda v. Bachan Singh, (P&H)(DB) 2017(3) R.C.R.(Civil) 145:** wherein it has been 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 or **sufficient cause** 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 here in above, 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."

Hon'ble the Apex Court, in Oriental Aroma Chemical Industries Ltd. vs. Gujarat Industrial Development Corporation and another, 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.”

Similarly, 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."

Further the Hon'ble Apex Court in case *Basawaraj and another v. Special Land Acquisition Officer, 2014 (RCR) Civil, 603* , 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."

For the reasons mentioned above and as per the law discussed above, the explanation is not worth acceptance, even though the proceedings are under welfare legislation, these cannot be stretched to the extent that limitation provided under the statute should be given a go-bye.

The application is accordingly dismissed.

As a result, the appeal is also dismissed.

30.11.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No