

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

CM No.20388-CII of 2017 in/and
FAO-6382-2017
Date of decision: 08.12.2017

Kamlesh Kumari and others

.... Appellants

Versus

Sukhwinder Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.Ashwani Arora, Advocate
for the appellants.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 03.11.2015 passed by Motor Accidents Claims Tribunal, Rupnagar (hereinafter referred to as the 'Tribunal').

In a motor vehicular accident that occurred on 30.11.2014, Satnam @ Satnam Singh, lost his life. The legal heirs of the deceased filed claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'). The Tribunal awarded a sum of Rs.13,45,000/- along with interest @ 8% per annum.

The present appeal has been filed against the said award. The appeal is accompanied by an application under Section 5 of the Limitation Act for condoning the delay of 444 days.

The explanation put forth in the application is that after receiving the compensation, the claimants had gone to their native place and

counsel never informed them about the limitation for filing the appeal. The said explanation is not worth acceptance. It has not been denied that the award was handed over by the counsel to the claimants and not only that they have received the compensation amount also. In such circumstances, it is not acceptable that counsel had not informed them about the limitation for filing the appeal.

The said explanation is only a device to cover up delay in filing the appeal. The Hon'ble Apex Court in **Pundik 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.”

A Division Bench of this Court in **Municipal Committee (Now Municipal Corporation), Bathinda vs. Bachan Singh, (P&H) (DB), 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 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.

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.

In the above decision, the Courts have refused to condone the delay where the explanation put forth was not satisfactory.

The Hon'ble Apex Court in case **Basawaraj v.Land Acquisition Officer, (2013) 14 SCC 81**, 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 the above authorities, it has been held that the court cannot inquire into the belated and stale claims on the ground of equity. Further, where the explanation was not found satisfactory, delay was not condoned. The Hon'ble Apex Court further held that the sufficient cause will not cover

the cases where the parties had not acted diligently or remained inactive.

In view of the law cited above and the fact that the explanation is not worth acceptance, delay cannot be condoned.

The application for condonation of delay being without any merit is dismissed.

Consequently, the main appeal is dismissed as time barred.

(AVNEESH JHINGAN)
JUDGE

08.12.2017

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1. Whether the order is speaking/reasoned: Yes/No

2. Whether the order is reportable : Yes/No