

101.

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

**CM-26290-CII-2014 IN/AND
FAO-9490-2014**

Date of decision:05.04.2018.

PREM SINGH

... Appellant

Versus

RAJ KUMAR & ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Davinder Lubana, Advocate,
for the appellant.

Mr. Vinod Chaudhri, Advocate,
for respondent No.2-Insurance Company.

HARI PAL VERMA, J.

Appellant has filed the present appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Panchkula (for short, "the Tribunal") vide award dated 11.01.2005.

Power of attorney filed on behalf of appellant in court today, is taken on record.

On a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, the Tribunal has awarded an amount of ₹3,97,560/- as compensation to the appellant (injured) along with interest @ 6% per annum.

Not satisfied with the aforesaid amount of compensation, the appellant-claimant has filed the present appeal against the award dated 11.01.2005. Since the appeal is delayed by 3437 days, an application under Section 5 of Limitation Act has also been filed seeking condonation of delay.

In the application seeking condonation of delay, applicant has pleaded that he had engaged Shri Lalit Gupta, Advocate to pursue his claim petition and the claim petition was allowed. But as the awarded compensation was on a lower side, the applicant wanted to file appeal seeking enhancement of compensation. Vide award dated 11.01.2005, four claim petitions were taken together and decided accordingly. All the claimants have engaged Mr. Pawan Sharma, Advocate and on enquiry made by the applicant, he was informed that the appeal is pending. However, when the applicant enquired from this Court, he came to know that only two connected appeals were filed. On coming to know this fact, the appellant approached Shri Lalit Gupta, Advocate (counsel for the appellant before the Tribunal), who further engaged Mr. Satyavir Chauhan, Advocate. Mr. Satyavir Chauhan, Advocate, intimated and assured that the present appeal and other appeals were filed. But thereafter in the last week of 2014, Mr. Satyavir Chauhan, Advocate, returned the present and other appeals to Shri Lalit Gupta, Advocate. It is thereafter, the appellant engaged Mr. Vikram Bali, Advocate, to re-file the appeal and in this manner, delay of 3437 days has been occurred. He has further argued that even if appeal is barred by limitation, the appellant is ready to forego the interest for the delayed period.

Learned counsel for the applicant-appellant has relied upon **Pushpa Rani and others Versus Gurbant Singh and others-2013(25) RCR (Civil) 863** whereby delay of 1844 days in filing the appeal was condoned. He has also relied upon **Smt. Sunita Devi and others Versus Union of India and others-2016(3) RCR (Civil) 904** where delay of 1736 days was

condoned but the claimants were not held entitled for interest for the delayed period.

I have heard learned counsel for the applicant-appellant.

It is a pleaded case of the applicant-appellant that he engaged Shri Lalit Gupta, Advocate, to pursue the claim petition and after the decision by the Tribunal, the claimant wanted to file an appeal for enhancement of compensation before High Court. Vide common award, four claim petitions were decided and all the claimants engaged Mr. Pawan Sharma, Advocate, who intimated and assured that the appeal is pending but the fact remains that no such appeal was filed. It is only on 08.09.2014, the appeal was preferred against the award dated 11.01.2005.

The impugned award was passed on 11.01.2005 whereas the appeal in question was filed on 08.09.2014. Thus, there is an inordinate delay of 3437 days in filing the present appeal. The very reason for seeking condonation of delay does not satisfy the requirements as provided under Section 5 of Limitation Act. It is not the case of the applicant-appellant that he was not in the knowledge of the impugned award. Even the amount awarded by the Tribunal was released to the appellant.

In the case of **Basawaraj and another Versus Special Land Acquisition Officer-2013 (14) SCC 81**, where the plaint was presented after a period of limitation, the Hon'ble Apex Court held that in order to get the delay condoned, 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 application for condonation of delay. In the case of **Madan Lal Versus Shyamlal-2002 (2)**

RCR (Civil) 361 and Ram Nath Sao @ Ram Nath Sahu & Ors. Versus Gobardhan Sao & Ors.-2002 (2) RCR (Civil) 337, the Hon'ble Apex Court has held that the expression “sufficient cause” should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides are not imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible.

In Basawaraj's case (supra), the Hon'ble Apex Court has held as under:-

“12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. “A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim “dura lex sed lex” which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.

13. The Statute of Limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to

prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale.

According to Halsbury's Laws of England, Vol. 24, p. 181:

"330. Policy of Limitation Acts. The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence".

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence' or laches.

(See: [Popat and Kotecha Property v. State Bank of India Staff Assn.](#) (2005) 7 SCC 510; [Rajendar Singh & Ors. v. Santa Singh & Ors.](#), AIR 1973 SC 2537; and [Pundlik Jalam Patil v. Executive Engineer, Jalgaon Medium Project](#), (2008) 17 SCC 448).

14. [In P. Ramachandra Rao v. State of Karnataka](#), AIR 2002 SC 1856, this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in [A. R. Antulay v. R.S. Nayak](#), AIR 1992 SC 1701.

15. 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 bonafide on his part in 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 this court in regard to the condonation of delay. In case there was no sufficient cause 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.”

Therefore, the delay being inordinate i.e. of about 10 years in filing the present appeal despite the award being in the knowledge of the applicant-appellant, this Court finds that the applicant-appellant has failed to establish “sufficient cause” so as to condone the delay.

Accordingly, the application seeking condonation of delay as well as the appeal stand dismissed.

(HARI PAL VERMA)
JUDGE

05.04.2018
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No