

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

**CM No.26314-CII of 2015 in/and
FAO No.8330 of 2015 (O&M)
Date of Decision: 06.09.2018**

Daljit Kaur and others

... Appellants

Versus

Gurmeet Singh and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Gulzar Mohd. Advocate,
for the appellants.

Mr. Ram Avtar, Advocate,
for respondent No.3.

TEJINDER SINGH DHINDSA, J.

This is a claimants' appeal seeking enhancement of compensation.

It may be noticed that vide award dated 30.08.2011 passed by the Motor Accident Claims Tribunal, a compensation amount of Rs.9,34,570/- was awarded in favour of the claimants on account of death of Manjit Singh in a motor vehicle accident that took place on 19.02.2007.

The appeal is accompanied by an application i.e. CM No.26314-CII of 2015 seeking condonation of delay of 1430 days that has occurred in filing the main appeal.

Counsel for the appellants/applicants has advanced submissions and seeks condonation of delay of 1430 days that has occurred in filing the appeal in terms of the averments made in the application. It is submitted that consequent to the death of Manjit

Singh, the applicants remained under mental shock and such state continued even after passing of the award dated 30.08.2011. Further submitted that as per advice given by counsel, applicants moved a miscellaneous application before the Tribunal itself for granting interest and the same was dismissed on 30.01.2015. Further urged that the counsel before the Tribunal had informed the applicants that as and when their presence is required he would duly inform them. No such communication came from the side of the counsel and after waiting for a considerable length of time the applicants themselves approached the counsel and thereupon learnt that their application for award of interest had been dismissed by the Tribunal on 30.01.2015. Counsel argues that it is under such circumstances that the delay has occurred and which is neither intentional nor wilful.

Learned counsel representing the contesting respondent No.3-Oriental Insurance Company Limited has filed reply to the application seeking condonation and vehemently opposed the prayer. Counsel argues that no sufficient cause/reason has been furnished to justify the prayer seeking condonation of delay. No medical document has been adduced to substantiate the plea that the applicants remained under mental shock over a period of almost 04 years.

Having heard counsel for the parties, this Court is of the considered view that there would be no justification for condoning the inordinate delay of 1430 days.

In *Oriental Aroma Chemical Industries Limited Vs.*

Gujarat Industrial Development Corporation and another, 2010

(2) RCR (Civil) 284, it was held that a liberal approach should be adopted in condonation where the delay is of short period and a strict approach where the delay is inordinate. Relevant observations made by the Apex Court is as under:-

“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.”

In the present case condonation of delay of 1430 days is

sought on the ground that the counsel representing the applicant/appellants in the MACT proceedings, Ludhiana had not informed them as regards the fate of an application for grant of interest on the compensation amount.

Such stand taken on behalf of the applicant/appellants does not inspire confidence. The applicants/appellants had duly pursued their claim petition filed under Section 166 of the Motor Vehicles Act and which was decided on 30.08.2011. Thereafter, an application had been moved for grant of interest. It would be difficult for this Court to accept the version put forth that the applicants/appellants did not establish contact with their counsel over such a long period. Even though a finger is sought to be pointed at the counsel representing the applicant/appellants before the Motor Accident Claims Tribunal, Ludhiana, yet his name has not even been disclosed in the application.

This Court would be constrained to observe that the applicants/appellants have not acted diligently in the matter and the reasons furnished seeking condonation are not bonafide. The expression "sufficient cause" to condone delay would arise only if adequate, cogent and credible reasons are set forth. Facts and circumstances of the present case clearly show that the applicants/appellants had remained totally inactive and which has resulted in an inordinate delay of 1430 days in filing the accompanying appeal. ***As per dictum laid down in Oriental Aroma Chemical Industries Limited (supra)***, a strict approach ought to be adopted in dealing with the application where delay is

inordinate.

In view of the above, the justification put forth at the hands of the applicants/appellants seeking condonation of delay of 1430 days in filing the appeal cannot be accepted.

As a result, the application for condonation of delay is dismissed.

Consequently, even accompanying appeal is dismissed being time barred.

06.09.2018

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No