

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

CM-23085-CII-2018 in/&
FAO-6644 of 2018
Date of decision:-22.10.2018

Jasmeet Singh and another

.....Appellants

versus

Binder Singh

.....Respondent

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

Present:- Mr. Ranjivan Singh, Advocate for the appellants.

TEJINDER SINGH DHINDSA, J.

The Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri passed an award dated 16.04.2016, awarding the compensation amount of Rs.3,34000/- in favour of Binder Singh, for the injuries that he suffered in a motor vehicle accident which took place on 21.12.2013 on account of rash and negligent driving of motorcycle bearing registration No.HR-02AB-2328.

Instant appeal has been filed by the driver and owner of the offending motorcycle assailing the award dated 16.04.2016.

It is not in dispute that the motorcycle in question was not insured and as such liability to pay the compensation amount was fastened upon the appellants herein.

Instant appeal is accompanied by an application (CM-23085-CII-2018) under Section 5 of the Limitation Act, seeking condonation of 824 days delay in filing the appeal.

Counsel for the applicants/appellants submits that after passing of the award dated 16.04.2016, appellant No.2 who is the father of the

appellant No.1, had gone abroad in the year 2016-2017, to earn his livelihood. Appellant No.1 was unemployed at the time of accident and as such under such circumstances in the absence of appellant No.2, he was not able to take any further legal recourse and which has resulted in the delay of 824 days in filing the appeal. No other submission has been raised as regards condonation of delay and no other ground has been cited in the application as well.

Having heard learned counsel for the applicants/appellants at length and having perused the pleadings on record, this Court is of the considered view that there would be no justification for condoning the inordinate delay of 824 days.

The Apex Court has dealt and examined the aspect of delay in **Basawaraj and another Vs. Special Land Acquisition Officer, 2014 (1) R.C.R. (Civil) 603**, wherein it was observed as under:-

“The law on the issue can be summarized 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 bona fide 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.”

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.”

Adverting back to the facts of the present case condonation of

delay of 824 days, is sought merely on the basis that the owner of the

offending motorcycle appellant No.2, has proceeded abroad to earn his livelihood and thereby appellant No.1 who was the son being unemployed could not afford legal recourse. Such plea is not substantiated by any other averments/material and which would otherwise reflect upon the grave financial difficulty that is otherwise being portrayed in the application seeking condonation of delay. 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 bona fide. The expression “sufficient cause” to condone delay would arise only if adequate, cogent and credible reasons are set forth. Facts of the present case clearly shows that the applicant/appellants had remained totally inactive and which has resulted in an inordinate delay of 824 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 applications 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 824 days in filing the delay cannot be accepted.

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

Consequently, the accompanying appeal is also dismissed being time barred.

(TEJINDER SINGH DHINDSA)
JUDGE

22.10.2018

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No