

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1493 of 2014 (O&M)
Date of decision: 14.1.2019

Baljeet Singh

.. Appellant

v.

New India Assurance Company Limited and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Munish Kumar Garg, Advocate for the appellant.

Ms. Neha Bakshi, Advocate for

Mr. S. S. Sidhu, Advocate for respondent No. 1.

Mr. Yogesh Saini, Advocate for respondent No. 3.

Mr. Ram Avtar, Advocate for respondent No. 5.

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AVNEESH JHINGAN, J. (Oral)

The award dated 11.10.2008 passed by the Motor Accident Claims Tribunal, Jind (for short, 'the Tribunal') under Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act') has been assailed in appeal by the claimant seeking enhancement of compensation.

The appeal is accompanied by an application under Section 5 of the Limitation Act, 1963 for condoning the delay of 1,748 days in filing the appeal.

Learned counsel for the applicant-appellant contends that the appeal has been filed under a welfare legislation and the delay was not intentional, hence, the same should be condoned.

Learned counsel for the respondents submit that there is no explanation put forth explaining the reasons of delay.

From the perusal of the application, the contention raised by learned counsel for the respondents is substantiated. The reasons given for

condonation of delay in the application are reproduced below:

“2. That inadvertently the file of the appeal was put along with the admitted file before filing of the accompanied appeal as such delay of 1748 days has occurred in filing of appeal.

3. That the reasons of late filing of accompanied of appeal were bonafide and were beyond control of the applicants and no benefit has accrued to the applicants in late filing of the accompanied appeal.”

In the application, no details have been mentioned as to when it was found that papers were put along with admitted file. The applicant never asked about the appeal for about 4-1/2 years. Suffice to say that no reason has been mentioned, much less satisfactory reason. It may be pertinent to mention here that the application is supported by an affidavit of the applicant-appellant and the reason stated in the application is regarding the mistake of office of the counsel.

The contention of learned counsel for the applicant-appellant that the appeal is under the welfare legislation cannot be a ground in itself to condone the delay. The fact remains that the law of limitation still exists. It is only where sufficient cause is explained, the courts can condone the delay. In case, where the delay is inordinate, a strict view has to be taken. Reliance in this regard can be placed upon a decision of the Supreme Court in **Oriental Aroma Chemical Industries Ltd. v. Gujarat Industrial Development Corporation and another**, (2010) 5 SCC 459, wherein it has been 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.”

As there is no reason mentioned in the application for condoning the delay of 1,748 days in filing the appeal, the application is dismissed. Consequently, the application for condonation of delay in re-filing and the appeal are also dismissed.

(AVNEESH JHINGAN)
JUDGE

14.1.2019
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No