

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2326 of 2018 (O&M)
Date of decision: 6.5.2019

Smt. Faiman and others

.. Appellants

v.

Alisher and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Neha Rana, Advocate for the appellants.

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AVNEESH JHINGAN, J. (Oral)

The award dated 21.8.2014 passed by the Motor Accident Claims Tribunal, Mewat (for short, 'the Tribunal') has been assailed by the claimants in appeal. The appeal is accompanied by an application for condonation of delay of 1087 days in filing the present appeal.

The brief facts of the case are that in a motor vehicular accident that took place on 26.5.2012, in the said accident, Yusuf lost life. A claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') by the legal representatives of Yusuf. The Tribunal awarded a sum of ₹7,77,050/- along with interest @ 7.5% per annum. The owner and driver of the vehicle bearing registration No. HR-27-C-4958 (hereinafter referred to as 'the offending vehicle') were held jointly and severally liable to pay the compensation. The insurer of the offending vehicle was exonerated as there was breach of terms of the insurance policy.

In the application, the reason for delay has been given that the applicants-appellants were not aware of the limitation period for filing the appeal.

The explanation put forth is not sufficient. The accident took

place on 26.5.2012 and the claim petition was instituted on 14.8.2012 i.e. in a period of less than three months. During the proceedings before the Tribunal, father of the deceased appeared as a witness. After due contest, the award was passed on 21.8.2014. This itself establishes that the applicants-appellants were in constant touch with the counsel. The appeal is filed after more than three years of passing of the award, it cannot be accepted that the applicants-appellants were not aware about the limitation period to file the appeal. In any case, it would not have taken three years to know the limitation for filing the appeal. Ignorance of law itself is no excuse especially in case where the claim petition was filed in a period of less than three months from the date of accident.

A liberal view is to be taken for condoning the delay where the period is short but a strict view is to be taken in case where the period of delay is more. 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.”

In case of **Amalendu Kumar Bera and others v. The State of West Bengal**, 2013(2) RCR (Civil) 534, the Supreme Court has held that the delay in filing the appeal or revision cannot and shall not be mechanically considered and in the absence of 'sufficient cause' delay shall not be condoned. In case of serious negligence, the delay should not be condoned.

As there is no reason worth acceptance mentioned in the application seeking condonation of delay of 1087 days in filing the appeal, the application is dismissed. As the application for condonation of delay in filing the appeal is dismissed, consequently the appeal is also dismissed.

(AVNEESH JHINGAN)
JUDGE

6.5.2019
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No