

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

C.M. No. 17306-CII of 2018 and  
F.A.O. No. 5203 of 2018 (O&M)

Date of Decision: 16.01.2019

Smt. Nitika

.....Appellant

**Versus**

Parmod Kumar @ Parmod Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ishan Kaushal, Advocate  
for the applicant-appellant.

**AVNEESH JHINGAN, J.(oral)**

The present appeal is against award dated 30.7.2013 passed by the Motor Accident Claims Tribunal, Patiala (for short 'the Tribunal'). The appeal is accompanied by an application under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 1523 days in filing the present appeal.

The applicant-appellant filed a claim petition seeking compensation under Section 166 of the Motor Vehicles Act, 1988, on account of death of her father Baldev Kishan. In the claim petition, the Tribunal vide award dated 30.7.2013 awarded a sum of ₹ 4,05,000/- along with interest at the rate of 9% per annum.

Aggrieved of the award, the present appeal has been filed in December 2017. In the application seeking condonation of delay, it has been stated that there was no one to take care of her welfare, hence, she could not pursue her case and later on she got married and it escaped from her knowledge to challenge the award. However, in the month of November 2017, certified copy was received and after consulting the counsel, the present

appeal has been filed.

From perusal of the paper book, it is forth coming that the applicant-appellant was 20 years old at the time of filing of the claim petition. She pursued the claim petition and even deposed before the Tribunal in support of her claim petition. There is no pleading to the effect that she had not received the amount awarded by the Tribunal in pursuance to the award. Even in the application, it has not been stated that when she got married.

The explanation put forth in the application for condonation of delay is not satisfactory. The reason given for delay that there was no one to take care of her welfare and she could not pursue the case, is contradictory to the facts on record as the claim petition was filed within seven months of the accident. The said claim petition was pursued and the amount awarded by the Tribunal was received by the appellant. For more than four years, the applicant-appellant took no steps to challenge the award.

There is no dispute on the proposition that sufficient cause mentioned in Section 5 of the Limitation Act is to be given liberal approach but it is only in the cases where satisfactory explanation is forthcoming.

The Supreme Court has held that a liberal view has to taken where delay is shorter and a stricter approach where delay is inordinate.

The Supreme Court in **Oriental Aroma Chemical Industries Ltd. Vs. Gujarat Industrial Development Corporation and another, 2010 (5) SCC 459**, 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 the above decision, it has been held that the Section 5 is elastic enough to enable courts to serve the ends of Justice. But, if no satisfactory explanation is coming forth, delay should not be condoned.

Thus, in view of the decision of the Apex Court and the explanation put forth by the appellant, the application for condonation of delay is dismissed.

Consequently the appeal is also dismissed.

**(AVNEESH JHINGAN)**  
**JUDGE**

**16.01.2019**

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| Whether speaking/reasoned | Yes/No |
| Whether Reportable:       | Yes/No |