

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

**FAO No.8413 of 2017 (O&M)
Date of Decision: 26.02.2019**

Dalip Singh

Appellant

Versus

Joginder Singh and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vineet Chaudhary, Advocate
for the appellant.

AVNEESH JHINGAN, J (Oral):

This is an appeal filed by the claimant against award dated 19.02.2015 passed by the Motor Accident Claims Tribunal, Kaithal [for brevity 'the Tribunal'] seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act']. The appeal is accompanied by an application under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 682 days in filing the present appeal.

The brief facts of the case are that a motor vehicular accident took place on 29.09.2012. The accident was caused due to the rash and negligent driving of Canter bearing registration HR-37C-6482 [hereinafter referred to as 'offending vehicle']. In the accident, the appellant sustained injuries including fracture of right leg.

A claim petition was filed under Section 166 of the Act. The Tribunal awarded a sum of ₹1,46,000/- alongwith interest @ 9% per annum. The detail of compensation awarded is as under:-

Medical Bills	₹61,710/-
Loss of Salary	₹23,992/-
Transportation/Conveyance	₹10,500/-
Estimate value of removal of rod	₹20,000/-
Pain and suffering	₹15,000/-
Hospitalization and healthy diet	₹15,000/-

Total	₹1,45,202/-

There is delay of 682 days in filing the present appeal. Learned counsel for the appellant contends that after passing of the award in February, 2015, appellant/applicant was busy in getting the medical treatment and being a layman, he was not aware about the intricacies and process of law, due to which the delay has occurred.

The explanation put forth is not satisfactory. It would be pertinent to note here that there is no evidence put forth to show that his treatment for removal of rod continued from March, 2015 till April, 2017. Rather there is nothing on record to show that there was any such treatment taken and the rod was removed. The explanation that the appellant was not aware of process of law is also not well founded. The accident took place in September, 2013 and the claim petition was filed in March, 2014 itself shows that he was in touch with the counsel and was aware about the compensation to be awarded under the Act.

A liberal view is to be taken where the period of delay is short but a strict view is to be taken where the 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.”

Further the Supreme Court in **Pundlik Jalam Patil (D) by LRs. Versus Exe. Eng. Jalgaon Medium Project and another, 2008 (17) SCC 448**, has held as under:

“..... It was its duty to prefer appeals before the Court for consideration which it did not. There is no explanation forthcoming in this regard. The evidence on record suggest neglect of its own right for long time in preferring appeals. The court cannot enquire into belated and stale claims on the

ground of equity. Delay defeats equity. The court helps those who are vigilant and 'do not slumber over their rights.' ”

It has been held that explanation of “sufficient cause” will depend upon the facts of the case. If no satisfactory explanation is coming forth, delay should not be condoned.

In the present case, a maxim of roman law subsequently embraced by equity : *Vigilantibus Et Non Dormientibus Jura Subveniunt*, which says the law comes to the assistance of those who are vigilant with their rights, and not those who sleep on their rights. It is evident that applicant was not vigilant in pursuing his remedies. No ground is made for condoning the delay

The application is dismissed and as a result thereof, the appeal is also dismissed being time barred.

[AVNEESH JHINGAN]
JUDGE

February 26, 2019

pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |