

In the High Court of Punjab and Haryana at Chandigarh

**CM No. 23158-CII of 2019 in/and
FAO- 6769 of 2019(O&M)
Date of Decision: 14.11.2019**

Shri Ram General Insurance Company Limited

---Applicant-appellant

versus

Hari Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Sachin Ohri, Advocate
for the applicant-appellant**

Rekha Mittal, J.

CM No. 23158-CII of 2019

Prayer in this application filed under Section 5 of the Limitation Act is for condoning delay of 120 days in filing the appeal.

Counsel for the applicant-appellant would argue that delay in filing the appeal is neither intentional nor mala fide. A liberal approach is required to be adopted for condoning delay so that meritorious claim is not rejected on technical considerations. It is further argued that a serious prejudice shall be caused to the applicant-appellant in case delay in filing the appeal is not condoned.

Before advertng to the submissions made by counsel for the applicant-appellant, it is appropriate to extract material averments raised in the application to constitute sufficient ground for condoning delay of 120

days, reads thus:-

“That date of order is 01.04.2019. Certified copy of the order was applied on 02.04.2019 which was prepared on 04.04.2019 which was delivered on 06.04.2019. Copy of the order was sent by the counsel on 15.04.2019 to Jaipur Office which was received after 2-3 days. On 26.04.2019, the said case was discussed with the senior legal officers. The senior officers asked to provide the documents to take call on this matter. Thereafter, on 15.05.2019, legal team requested the counsel to provide the entire set of documents on record. 06.06.2019, present counsel sent the documents to the local office at Chandigarh. 28.06.2019, the said case was again discussed with senior officers. On 11.07.2019, senior officer asked to take opinion of the counsel before the Hon'ble High Court. On 22.07.2019, opinion was sought from the counsel. On 31.07.2019, counsel sent his opinion to the local team at Chandigarh. On 01.08.2019, it was decided to file an appeal before the Hon'ble High Court. On 09.08.2019, the demand draft was prepared to file an appeal and documents were sent to the counsel for filing of an appeal. On 22.08.2019, present counsel sent the grounds of appeal for signature and approval. On 11.09.2019, signed ground of appeal was sent to counsel for filling of appeal. Due to the aforesaid reason, delay has been occurred”

The application is supported by an affidavit of Amandeep

Sharma, Assistant Manager Legal.

Experience shows that such averments are usually raised for getting condoned delay in filing of appeal. The applicant till date has not paid even a single penny to the claimants as per award dated 1.4.2019. When the case is examined in the light of judgment of this court in **FAO No. 4740 of 2016 decided on 17.10.2016 titled “Bharti Axa General Insurance Company Limited vs. Ram Parshad and others”** alongwith connected cases, there is no sufficient cause for condoning huge delay of four months. As a consequence, application for condonation of delay is liable to be dismissed and ordered accordingly. As application for condonation of delay has not been allowed, the appeal is dismissed being barred by limitation. No order as to costs.

(Rekha Mittal)
Judge

14.11.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No