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

**FAO No.576 of 2018 (O&M)
Date of Decision : 09.04.2019**

Sarbati and others

Appellants

Versus

Ashu and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ishan Cooner, Advocate
for the appellants.

None for the respondents.

AVNEESH JHINGAN, J (Oral)

The award dated 04.04.2013 passed by the Motor Accident Claims Tribunal, Sonipat [for brevity 'the Tribunal'] has been assailed by the legal representatives of Hawa Singh 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 for condoning the delay of 1525 days in filing the present appeal.

The brief facts of the case are that a motor vehicular accident took place on 17.06.2012. The accident proved fatal for

Hawa Singh, aged 65 years. The offending vehicle involved in the accident was Tractor bearing registration No. HR-11D-9457. FIR No.173, dated 17.06.2012 was registered at Police Station Gohana.

In the claim petition, income of the deceased was assessed as ₹5,000/- per month; ½ deduction for self-expenses was made and multiplier of '7' was applied. The Tribunal awarded compensation of ₹2,25,000/- alongwith interest @ 7.5% per annum. The amount awarded included ₹15,000/- under the conventional heads.

In the application for condonation of delay, the explanation given is that the applicants-appellants are from rural background and are living in the remote area and don't know the intricacies of law.

The sufficient caused explained is not satisfactory. It would be worthwhile to mention that motor vehicular accident took place on 17.06.2012 and the claim petition was filed on 23.08.2012 i.e. almost within two months of accident. The award was passed by the Tribunal on 04.04.2013. There is no pleading to the effect that the claimants had not received compensation awarded by the Tribunal. It would be pertinent to note here that the applicants-appellants are widow and two major sons aged 41 and 37 years. They are residing in District Sonipat. It is not a case where they had no access to the counsel as is evident from the fact that claim petition was

filed within two months of the accident. After passing of the award in April, 2013, claimants received compensation, in such circumstances, the explanation put forth cannot be accepted.

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.”

The Supreme Court held that where delay is short, delay be condoned but where delay is inordinate, it should not be condoned.

Further the Supreme Court in **Pundlik Jalam Patil (D) by LRs. Versus Exe. Eng. Jalgaon Medium Project and another, 2008 (17) SCC 448**, 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 was further noticed by the Supreme Court in **R.B. Ramlingam v. R.B. Bhavaneshwari 2009(1) RCR (Civil) 892** as under:-

“.....It is not necessary at this stage to discuss each and every judgment cited before us for the simple reason that Section 5 of the Limitation Act, 1963 does not lay down any standard or objective test. The test of "sufficient cause" is purely an individualistic test. It is not an objective test. Therefore, no two cases can be treated alike. The statute of limitation has left the concept of "sufficient cause" delightfully undefined, thereby leaving to the Court a well-intentioned discretion to decide the individual cases whether circumstances exist establishing sufficient cause. There are no categories of sufficient cause. The categories of sufficient cause are never exhausted. Each case spells out a unique experience to be dealt with by the Court as such.”

The Supreme Court in case of **Tribhuvanshankar Vs. Amrutlal, 2014 (1) RCR (Civil) 206**, has laid down that the fundamental policy behind the limitation is that if a person does not pursue his remedy within the stipulated time-frame, the right to sue gets extinguished.

In case of **Amalendu Kumar Bera and others Versus 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.

The Supreme Court in **State of Nagaland v. Lipok Ao, 2012 (3) RCR (Civil) 73: 2012 (2) Recent Apex Judgments (RAJ) 482: 2012 (5) SCC 157**, in paragraph 24 has held as under:

"24. What colour the expression "sufficient cause" would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay."

In **P.K. Ramachandran v. State of Kerala & Anr., 1997(4) R.C.R.(Civil) 242 : AIR 1998 SC 2276**, the Supreme

Court while considering a case of condonation of delay of 565 days, wherein no explanation much less a reasonable or satisfactory explanation for condonation of delay had been given, held as under :-

"Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds."

From the perusal of the above decisions, it is evident that there has to be a satisfactory explanation put forth for condonation of delay.

In the present case, there is no satisfactory explanation for condonation of delay.

In view of the facts noted above and law discussed, no ground is made out for condoning the delay.

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

[AVNEESH JHINGAN]
JUDGE

April 09, 2019
pankaj baweja

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