

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

FAO No. 6642 of 2019 (O&M)

Date of Decision: 19.02.2020

New India Assurance Company Limited  
Vs.

...Appellant

Darshan Kaur and others

...Respondents

**CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA**

Present: Mr. Satpal Dhamija, Advocate for the appellant.

**RAJIV NARAIN RAINA, J. (Oral)**

1. There is a delay of 27 days in filing the appeal by the Insurance Company. The explanation offered is as follows:-

*"1. That the above application has been filed in this Hon'ble court and on the basis of the grounds taken therein, the appellant is confident of the same being allowed. The grounds taken in the appeal may be read as a part of the present application also.*

*2. That the MACT, Kaithal pronounced the award on 07.05.2019. Application for supply of a certified copy of the orders was moved on 15.05.2019 and the certified copy was ready on 15.05.2019 and the copy was received on 17.05.2019. The limitation to file the appeal being 90 days and the present appeal having been filed on 02.09.2019, there is delay of 27 days in filing the appeal.*

*3. That after the certified copy of the orders were made available, the defending counsel sent the opinion to the concerned Divisional Office, Karnal with recommendations for filing the appeal. The file was sent to the Regional Office, Chandigarh and thereafter, dealt with at Regional Office at Chandigarh and after due consideration of the entire controversy, a cautious decision was taken to file an appeal in this Hon'ble Court against the award of the learned Tribunal. Thereafter DD of statutory amount was got prepared through concerned Divisional Office and after receiving the same and completing the file in all respects, present counsel was engaged. Thereafter, immediately appeal was drafted and in this process a delay of 27 days has occurred.*

*4. That the delay is bona fide and unintentional and even otherwise, it is not in the interest of the appellant-applicant to file the appeal late.*

*5. That it has been consistently held by the Courts that the cause of substantial justice has to prevail upon the technicalities."*

2. I hardly find the above explanation to be sufficient cause for

delay in filing the appeal by the Insurance Company which has all the wherewithal and the counsel at their command to file appeals within the prescribed period of limitation.

3. At the same time this Court cannot ignore the principle involved in condoning delays in approaching Court in appeals being as ever liberal as law permits, which consideration instructs that there should be “sufficient cause shown” and reasonable explanation for the delay which is condonable and acceptable by any person of ordinary prudence for accepting the reasons which have caused the delay being unintentional and beyond control.

4. The Supreme Court in Office of the Chief Post Master General & ors. v. Living Media India Ltd. & Anr., 2012(2) S.C.T. 269 has observed as under :

*“13. In our view, it is the right time to inform all the Government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The Government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of for Government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”*

5. In view of the above, the application for condonation of delay in filing the appeal as well as main appeal is dismissed.

(RAJIV NARAIN RAINA)  
JUDGE

19.02.2020  
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Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No