

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

FAO-4880-2017(O&M)

Reserved on: 17.11.2022

Date of pronouncement: November 23, 2022

Badrinath @ Badrinarayan through GPA Naresh Kumar Bhatra
..... Appellant

Versus

The New India Assurance Company Limited and Others
..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr.R.K Girdhwal ,Advocate, for
Mr. Amardeep Sheoran, Advocate,
for the appellant.

Mr.Lalit Garg, Advocate
for respondent no.1-Insurance Company.

HARKESH MANUJA, J.

CM-14779-CII-2017

This is an application for condonation of delay of 1291 days in
filing the appeal.

It has been specified in the application filed by the applicant/
appellant that no notice was served on him in the claim petition and he
came to know about these proceedings only when execution petition was
filed in the Court at Rajasthan.

Insurance Company, in reply of this application, controverted
the ground taken by the appellant and has stated that the appellant in his
entire application has not mentioned the exact date on which he came to
know about the proceedings of this case and has thus, deliberately avoided
the proceedings before the learned Tribunal. It has further been argued and

this fact has also come on record in the order of the learned Tribunal that counsel for the respondent No.4/ driver appeared on one date before it, but failed to appear subsequently and therefore, it cannot be believed that the appellant was not aware about these proceedings before the learned Tribunal.

I find force in the submission made on behalf of the Insurance Company that apart from the bald statement made in his application, no further clarification has come from the side of applicant/appellant that exactly when he received the communication in this regard from the Court at Rajasthan. Final order was passed by the learned Tribunal on 13.08.2013 and no details have been mentioned as to on which date execution was filed by the claimants. The present appeal came to be filed before this court on 18.05.2017 i.e. after delay of 1291 days, that too much after the appeal filed by the claimants before this court for enhancement of compensation which was decided vide order dated 29.09.2015 in FAO No. 4183 of 2014.

In case of such extraordinary delay, it was obligatory on part of the applicant/appellant to explain in detail the reason why he could not appear before the learned Tribunal and what was the legal discrepancy while affecting service upon him so as to show that he was not served as claimed by him. There is also no clarification to the effect that whether the address of the appellant changed subsequently in the execution proceedings as it is the admitted case of the appellant that he came to know about the pendency of this case during the execution proceedings. Further, in view of the fact that counsel of the driver appeared on a date before the learned Tribunal, it is difficult to believe the version of the

appellant that he was unaware about the proceedings before the learned Tribunal.

In "Basawaraj & Another vs Spl.Land Acquisition Officer"

reported as [(2013) 14 SCC 81], the Hon'ble Apex Court held that:-

"... where a case has been presented in Court beyond limitation, the applicant has to explain the Court as to what was the 'sufficient cause', which means an adequate and enough reason which prevented him to approach the Court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the FAO NO. 150 OF 2019 delay. No Court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by the Court in regard to condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the Court on time, condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions, and it tantamount to showing utter disregard to the legislature."

In light of these facts, it appears that the applicant/appellant kept himself away from these proceedings purposely and knowingly and no sound clarification has come from his side to establish sufficient cause for condoning the inordinate delay of 1291 days.

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

Therefore, application is dismissed.

FAO No. 4880 of 2017 (O&M)

As the application for condonation of delay has been dismissed as a result thereof, FAO No. 4880 of 2017 is also dismissed being time barred.

Pending miscellaneous application(s), if any, shall also stand disposed of.

November 23, 2022
sanjay

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>