

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.6285 of 2017 (O&M)
Date of Decision: 22.12.2022

Pawan Thakur

.....Appellant

Vs.

Shriram General Insurance and another

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Jagtar Kureel, Advocate for the appellant.

Mr. Punit Jain, Advocate for respondent No.1.

DEEPAK GUPTA, J.

Owner of the offending vehicle is in this appeal against award dated 03.02.2014 passed by learned Motor Accident Tribunal, Chandigarh in MACT Case No.753/2012 titled **Kishan Singh Vs. Pawan Thakur and Another**, whereby compensation of ₹7,12,692/- was allowed to the claimant. Owner – respondent No.2 (now appellant) was held liable to pay the compensation. However, respondent No.3-Insurance Company was directed to satisfy the award but was given recovery right to recover the same from the insured- owner.

2. The appeal is accompanied by an application to condone the delay of 1220 days in filing the appeal. It is contended that though the impugned award was announced on 03.02.2014 and appeal should have been filed upto 04.05.2014 but the same could not be filed within time as one of

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the family friend of the appellant was taking care of the litigation and after the decision informed the appellant that finding on Issue No.3 had been returned against the Insurance Company and so, there was nothing to worry. It was in the month of July, 2017 that appellant visited his family friend, obtained the copy of award, got it checked from an advocate, who informed that award should be challenged before the High Court. After collecting the copy of the award, appellant took opinion from a counsel at Chandigarh and then filed the appeal. All this caused delay of 1220 days.

3. Respondent- Insurance Company in its reply has strongly opposed the application.

4. I have considered the submissions of both the sides and have perused the record.

5. Learned counsel for the appellant relied upon **Ishwar Singh Vs. Naresh Kumar and others**, 2019(4) PLR 727, wherein a co-ordinate Bench of this Court condoned the delay of 1012 days by holding that Court should adopt a liberal and non-pedantic approach while dealing with the question of condonation of delay. Reliance is further placed upon **Brahampal @ Sammay and another Vs. National Insurance Company**, 2020(3) PLJR 426, wherein it has been held by Hon'ble Supreme Court that appeal may be entertained after expiry of 90 days if appellant satisfies the Court that there existed sufficient reasons behind delay. The provision being beneficial legislation must be given liberal interpretation to serve its object. Learned counsel further referred to **Mohinder Singh Vs. Lakhwinder Kaur and others**, 2016(2) PLR 165, wherein a co-ordinate Bench of this Court condoned the delay of 1933 days on finding a substantial question for consideration in the

appeal.

6. The law of limitation prescribes the time limit within which, aggrieved persons may initiate legal proceedings for redressal of their grievances. The basic concept of limitation is relating to fixing or prescribing the time period for barring legal actions. There are two major considerations, on which the doctrine of limitation and prescription are based. Firstly, the rights which are not exercised for a long time are assumed as non-existent; and secondly, the rights which are related to property and rights which are in general should not be in a state of constant uncertainty, doubt and suspense. One of the main object of the Statute of Limitation Act, 1963, is more of a preventive kind and not to impose statutory bar after a certain period of time. It gives quietness to all the suits and other matters to enforce an existing right. The purpose of statute of Limitation Act is not to destroy or infringe the rights of an aggrieved person but to serve public in a better way and to save time.

7. In **Pundlik Jalam Patil Vs. Executive Engineer, Jalgaon Medium Project, (2008) 17 SCC 448**, it has been observed by Hon'ble Supreme Court as under:-

“The laws of limitation are founded on public policy. Statutes of limitation are sometimes described as “statutes of peace”. An unlimited and perpetual threat of limitation creates insecurity and uncertainty; some kind of limitation is essential for public order. The principle is based on the maxim “interest reipublicae ut sit finis litium”, that is, the interest of the State requires that there should be end to litigation but at the same time, laws of limitation are a means to ensure private justice suppressing fraud and perjury, quickening diligence and preventing oppression. The object for fixing time-limit for litigation is based on public policy fixing a lifespan for legal

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remedy for the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly. Salmond in his Jurisprudence states that the laws come to the assistance of the vigilant and not of the sleepy.”

In the above case, it was further observed by Hon’ble Supreme Court that Court cannot inquiry into belated and stale claims on the ground of equity. Delay defeats equity. The Courts help those who are vigilant and do not slumber over their rights.

8. In the present case, appellant is praying to condone the delay of 1220 days in an appeal against an award passed by the Tribunal, whereby compensation was allowed to the claimant way back on 03.02.2014.

9. In relation to moving an application under Section 5 of the Limitation Act, 1963, Hon’ble Supreme Court in **Ramlal, Motilal and Chhotelal Vs. Rewa Coalfields Ltd., (1962) 2 SCR 762**, held as under:-

“In construing s. 5 it is relevant to bear in mind two important considerations. The first consideration is that the expiration of the period of limitation prescribed for making an appeal gives rise to a right in favour of the decree-holder to treat the decree as binding between the parties. In other words, when the period of limitation prescribed has expired the decree-holder has obtained a benefit under the law of limitation to treat the decree as beyond challenge, and this legal right which has accrued to the decree-holder by lapse of time should not be light-heartedly disturbed. The other consideration which cannot be ignored is that if sufficient cause for excusing delay is shown, discretion is given to the Court to condone delay and admit the appeal. This discretion has been deliberately conferred on the Court in order that judicial power and discretion in that behalf should be exercised to advance substantial justice. As has been observed by the Madras High Court in **Krishna v. Chattappan**, (1890) J.L.R. 13 Mad. 269, “s. 5 gives the Court a discretion which in respect of jurisdiction is to be exercised in the

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way in which judicial power and discretion ought to be exercised upon principles which are well understood; the words ‘sufficient cause’ receiving a liberal construction so as to advance substantial justice when no negligence nor inaction nor want of bona fide is imputable to the appellant.”

[under-lined portion emphasized by this court]

10. In **Basawaraj and another Vs. Special Land Acquisition Officer, 2013(5) Law Herald (SC) 4205**, it has been observed by Hon’ble Supreme Court that the statute of limitation is founded on public policy. Its aim is to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have been agitated unexplainably and have from lapse of time become stale. An unlimited limitation would lead to a sense of insecurity and uncertainty and, therefore, limitation prevents disturbance or deprivation of what may have been acquired in the equity and justice by long enjoyment or what may have been lost by a party’s own inaction, negligence’ or laches,

11. Hon’ble Supreme Court observed further in **Basawaraj (supra)** that discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case. It was further observed that the expressions “sufficient cause” cannot be liberally interpreted, if negligence inaction or lack of bonafides is attributed to the party. Hon’ble Apex Court observed further that even though limitation may harshly affect the rights of a party but it has to be applied with all its rigour when prescribed by Statute. In case a party has acted with negligence, lack of bonafides or there is inaction, then there cannot be any justified ground for condoning the delay even by imposing conditions. Hon’ble Supreme Court observed further that if Court starts condoning the delay, where no sufficient cause is made out by

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imposing conditions, then it would amount to violation of statutory principles and showing utter disregard to the legislature.

12. In **Majji Sannemma @ Sanyasirao Vs. Reddy Sridevi and others**, Civil Appeal No.7696 of 2021 decided on 16.12.2021, delay of 1011 days was condoned by the High Court in filing the second appeal, against which Civil Appeal was filed before Hon'ble Supreme Court. After referring to **Pundlik Jalam Patil (supra); Ramlal, Motilal and Chhotelal (supra) and Basawaraj (supra)**, Hon'ble Supreme Court allowed the appeal by holding that High Court had not exercised the discretion judiciously.

13. In **P.K. Ramachandran Vs. State of Kerala and another**, (1997) 7 SCC 556, while refusing to condone the delay of 565 days, it was observed by Hon'ble Supreme Court that in the absence of reasonable satisfactory or even appropriate explanation for seeking condonation of delay, the same is not to be condoned likely. It was observed further that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when Statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds. It was observed further that while exercising discretion for condoning the delay, the Court has to exercise discretion judiciously.

14. In **Prakash and another Vs. Managing Director, K.S.R.T.C. and others**, 2000(2) ACJ 954, appeal was filed by the claimant after a delay of 416 days. Delay was not condoned by the High Court. Claimant filed SLP before the Hon'ble Supreme Court, which was dismissed.

15. In the present case, the appellant who was respondent No.2 before the Tribunal was duly represented by a counsel. The award dated

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03.02.2014 was announced in the presence of his counsel. Appellant has not given details of any such family friend, who was taking care of the litigation. Neither affidavit of any such ghost friend has been filed. Appellant himself pleaded that it is in the month of July, 2017 i.e. after more than three years of the announcement of the award that he obtained the copy of the award from his friend and then on consultation from the lawyer, was advised to file the appeal. This long inaction on the part of appellant for seeking condonation of delay, is absolutely inexcusable. I find the grounds for seeking condonation of delay to be absolutely insufficient and unjustifiable.

16. Considering the legal and factual position as noted above, appellant does not deserve the discretion of this court to be exercised in his favour to condone the delay of 1220 days in filing this appeal. As such, finding no merit in the application, the same is hereby dismissed.

17. Since application for condonation of delay has been dismissed, so main appeal itself is dismissed being barred by limitation.

December 22, 2022

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**(DEEPAK GUPTA)
JUDGE**

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No