

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(110)

CM-7442-CII-2023
CM-7444-CII-2023 in/and
FAO-1943-2023
Date of Decision : 27.04.2023

Zaru Shamji

...Appellant

Versus

Pooja and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Tejinder Pal Singh, Advocate for the appellant.

Harsimran Singh Sethi J. (Oral)

CM No. 7442-CII-2023

The present application has been filed for seeking condonation of delay of 1398 days in filing the accompanying appeal.

Certain facts have been mentioned in the application to give justification as to why the accompanying appeal could not be filed within the limitation prescribed. From the Award, it is clear that though initially the applicant-appellant appeared before the Motor Accident Claims Tribunal but thereafter, absented, due to which, he was proceeded ex-parte. Once, even before the Tribunal, the applicant-appellant was proceeded ex-parte, this shows that the applicant-appellant had lost interest in pursuing the remedy since long.

Further, as per the judgment of the Hon'ble Supreme Court of India in Civil Appeal No. 2474-2475 of 2012 titled as ***Office of the Chief***

Post Master General and others Vs. Living Media India Ltd. and another, decided on 24.02.2012, each day's delay is to be explained so as to seek the condonation of delay after proving the fact that the delay was not intentional and was beyond the control of the appellant. The relevant paragraphs 13 and 14 of the said judgment are 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 delay is an exception and should not be used as an anticipated benefit 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.

14. In view of our conclusion on issue (a), there is no need to go into the merits of the issues (b) and (c). The question of law raised is left open to be decided in an appropriate case. In the light of the above discussion, the appeals fail and are dismissed on the ground of delay. No order as to costs.

Appeal dismissed.”

In the facts and circumstances of the present case, no fact has been brought on record to show that delay of 1398 days is due to some valid

reasons, which were beyond the control of the applicant-appellant. As per the settled principle of law, the rights, which have been crystallized in favour of the respondents, cannot be taken away merely on the application filed seeking condonation of delay and that too without justifiable cause pleaded. Such crystallized rights can only be taken away, if some valid justification comes forward so as to explain that delay occurred due to the reasons, which were beyond the control of the appellant, due to which, the appeal could not be filed within limitation. In the present case, no valid justification has been given for the delay. Rather, the applicant-appellant even did not pursue the case before the Tribunal and was proceeded against ex-parte.

Keeping in view the above, as the claim for condonation of delay of 1398 days is not supported by any valid justifiable fact and keeping in view the settled principle of law settled in ***Chief Post Master General's case (supra)***, no ground is made out for condoning such a huge delay in the absence of any valid justification.

The application is dismissed.

FAO-1943-2023 and CM-7444-CII-2023

As the application seeking condonation of delay has been dismissed, consequently, the present appeal filed cannot be considered on merit and the same is also dismissed along with CM-7444-CII-2023.

April 27, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No