



XOBJC-24-2025 IN
FAO-2948-2006 (O&M)

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

**XOBJC-24-2025 IN
FAO-2948-2006 (O&M)
Date of decision:- 21.03.2025**

Nanhi Bai and another

...Appellants

Versus

Raj Kumar and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. Raghav Chhabra, Advocate,
for the applicant/Cross-objector/respondent No.2.

Ms. Richa Sharma, Advocate, for
Mr. Shailendra Jain, Advocate,
for the non-applicants/appellants.

None for respondents No.1 and 3.

SUDEEPTI SHARMA J.

CM-4800-CII-2025

This is an application filed under Section 151 of the Code of Civil Procedure, 1908, for condonation of delay of 75 days in filing the cross-objections.

Learned counsel for the applicant-cross objector/respondent No.2 submits that there is a delay of 75 days in filing the cross objections in the main appeal i.e. FAO-2948-2006 and prays for condoning the same on the ground that the applicant-cross objector/respondent No.2 was proceeded against *ex-parte* whereas, summons were never served upon him. Due to non-service of summons, he was deprived of the opportunity to appear



before the learned Tribunal and to present his defence regarding the ownership and liability of the offending vehicle i.e. TATA 407 bearing registration No.HR-16-3782 involved in the accident in question. He further submits that the learned Tribunal decided the claim petition vide its judgment dated 17.03.2006 without hearing him. He further submits that applicant-cross objector/respondent No.2 became aware of the proceedings only when he received notice regarding the pendency of the present appeal.

I have heard the learned counsel for the applicant-cross objector/respondent No.2 as well as counsel for the appellant and perused the whole record of this case.

A perusal of the record reveals that the applicant-cross objector/respondent No.2 has been arrayed as respondent No.2 in the claim petition filed by Smt. Nanhi Bai and another in which he was proceeded against *ex parte*. The said claim petition was dismissed by the learned Tribunal vide its judgment/award dated 17.03.2006 on the ground that the claimants/appellants failed to prove that the accident in question took place due to rash and negligent driving of respondent No.1. Aggrieved against the said judgment/award dated 17.03.2006, the appellants/claimants filed the present appeal against the said judgment/award which is pending adjudication and fixed for today itself before this Court in which the applicant-cross objector/respondent No.2 intends to file cross objections on the ground that he was not being heard and proceeded against *ex parte* by the learned Tribunal while deciding the claim petition filed by the appellants/claimants.



A perusal of the record further reveals that after making strenuous efforts, when applicant-cross objector/respondent No.2 was not served through ordinary process, his service was effected through publication. Despite service through publication, he did not appear before the learned Tribunal. The relevant zimini orders passed by the learned Tribunal for procuring presence of the applicant-cross objector/respondent No.2 are reproduced as under:-

*“Present : Sh. Sube Singh, Counsel for the petitioners.
Petition received by assignment. It be registered. Notice
be given to the respondents for 11.10.2000 postal regd. covers.*

Sd/-

ASJ/MACT/15.09.2000”

*“Present : Sh. Sube Singh, counsel for the petitioners.
Sh. R.K.Verma, counsel for respondent No.1.
Remaining respondents not served. They be again
summoned for 27.11.2000 on filing of PF/RC.*

Sd/-

ASJ/MACT/11.10.2000”

*“Present : Sh. Sube Singh, counsel for the petitioners.
Sh. R.K.Verma, counsel for the respondent No.1.
Summons on respondent No.2 received back unserved
whereas summons of respondent No.4 is not received back
served or otherwise. Fresh summons of respondents No.2 and 4
on filing of PF and RC be issued for 24.1.2002.*

Sd/-

MACT, Hisar 22.11.2001”

*“Present : Sh. Sube Singh, counsel for the petitioners.
Sh. R.K.Verma, counsel for the respondent No.1.
Summons on respondents No.2 and 4 received back
unserved for want of correct address. Let fresh notice be issued
for 18.3.2002 on filing of PF and correct address within two
days.*

Sd/-

MACT, Hisar 24.01.2002”

*“Present : Sh. Sube Singh, counsel for the petitioners.
Sh. R.K.Verma, counsel for the respondent No.1.
Summons of respondents No.2 and 4 not received back.
The learned counsel for the petitioner seeks time to make an
application under Order V Rule 20 CPC. Allowed. To come up
on 8.11.2004 for filing of application.*

Sd/-



(Dr. Shiva Sharma)
MACT, Hisar 3.11.2004”

“Present : Sh. Sube Singh, counsel for the petitioners.
Sh. R.K.Verma, counsel for the respondent No.1.

Notice of the respondents No. 2 and 4 not received back served or otherwise. An application under Order 5 Rule 20 CPC made for summoning of respondents No.2 and 4 by way of publication on the ground that they are intentionally avoiding the service. Heard. I am satisfied that the respondents are avoiding service and cannot be served by ordinary process and as such I direct that respondents No.2 and 4 be served for 6.1.2005 by publication of Court notice in Dainik Chetna, a Hindi daily published from Bhiwani. PF and publication charges be deposited within a week.

Sd/-

(Dr. Shiva Sharma)
ADJ, Hisar 8.11.2004”

“Present : Sh. Sube Singh, counsel for the petitioners.
Sh. R.K.Verma, counsel for the respondent No.1.

Respondents No.2 and 4 are duly served by way of publication. Case called several time since morning. But none is appearing on behalf of respondents No.2 and 4. Waited sufficiently. It is already 2:30 PM. Hence, respondents No.2 and 4 are hereby ordered to be proceeded against ex parte. To come up on 12.04.2005 for filing of written statement on behalf of respondent No.1.

Sd/-

(Dr. Shiva Sharma)
MACT, Hisar 14.03.2005”

A perusal of above zimini orders reveals that since, despite being served through publication, the applicant-cross objector/respondent No.2 intentionally did not appear, therefore, he was proceeded against ex parte, vide order dated 14.03.2005 passed by the learned Tribunal.

This case pertains to the year 2006 and at the relevant time when the claim petition was under consideration of learned Tribunal, applicant-cross objector/respondent No.2 did not put in appearance before the learned Tribunal to defend his case. Even, he did not make any effort to come forward during the pendency of the present appeal, despite notice



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issued to him in the year 2006. However, in the interest of justice, when fresh notice was served upon applicant-cross objector/respondent No.2, Mr. Raghav Chhabra, Advocate, put in appearance on 28.01.2025 on his behalf and filed the cross objections on 03.03.2025.

In these circumstances, this Court does not deem it appropriate to condone the alleged delay of 75 days, which is apparently about 19 years, in filing the cross-objections. Therefore, no ground is made out to entertain the application for condonation of delay at this belated stage and the same is hereby dismissed.

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Since the application for condonation of delay in filing the present cross-objections has been dismissed, therefore, the present cross-objections as well as the accompanying applications are also hereby dismissed.

(SUDEEPTI SHARMA)
JUDGE

21.03.2025
Virrendra

Whether speaking/non-speaking : Yes
Whether reportable : Yes/No