



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

258

Date of decision: 03.12.2025

FAO-186-2017(O&M)

Sh. Satender Parshad

...Appellant(s)

Vs.

M/s Jyoti Apparels & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Somya Goyal, Advocate for
Mr. Sumeet Jain, Advocate
for the appellant.

NIDHI GUPTA, J.
CM-640-CII-2017

This is an application under Section 151 CPC for condonation of delay of 972 days in re-filing the appeal.

The only reason given for condoning such inordinate delay is in Para 3 of the application, as under: -

“3. That the paper book of the present appeal was misplaced in the office of the counsel, as inadvertently clerk of the counsel has put the paperbook in the brief of admitted case hence case could not be re-filed at appropriate time. Later when one of the client whose case is admitted came to office for discussion, then only the said present paper book was traced and now is being re-filed. Hence delay of 972 days in refilling the appeal has occurred.”

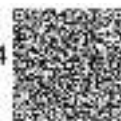


The Law of Limitation is enacted with a purpose, as a handmaid of Justice and cannot be ignored/reduced to an ineffective piece of legislation by giving it the complete go-by. With passage of time, rights of the parties get crystallised. It is the bounden duty of every litigant to pursue his case diligently; and it is also the bounden duty of this Court to ensure that justice inures to both parties concerned.

More so, the Hon'ble Supreme Court in ***Pathapati Subba Reddy (Died) by LRs and others vs. The Special Deputy Collector (LA), Law Finder Doc Id # 2542600***, has recently held as under:-

"26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

- (i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;*
- (ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;*
- (iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;*
- (iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;*



- (v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;
- (vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;
- (vii) Merits of the case are not required to be considered in condoning the delay; and
- (viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”

(Emphasis added)

It is my considered view that keeping in mind the totality of the facts and circumstances of the case, the reasons cited by the applicant for condonation of delay, do not constitute sufficient cause. In view of above, present application is **dismissed**.

CM-641-CII-2017

This is an application under Section 5 of Limitation Act for condonation of delay of 45 days in filing the appeal.

The reason given in the application seeking condonation of delay of 45 days is contained in Para 2 of the application, which is as under:-



“2. That the appellants are all residents of Bihar. None of the appellants has any source of income. The appellants came to know about the order passed by Commissioner only on 26.10.2013. The applicants were told that they have 90 days to file the appeal. However, when the appellants / applicants approached their counsel at High Court, they were told that limitation has already been expired and appeal is barred by 45 days as they will not get the benefit of exclusion of time spent from 20.09.2013 to 21.10.2013 and moreover the limitation of filing the appeal was 60 days and not 90 days.”

The above cited reason is vague and does not constitute sufficient cause to condone extraordinary delay of 45 days in filing the present appeal. It is cardinal principle of law that delay of each day has to be explained. In this regard, reliance may also be placed upon recent judgment of Hon’ble Supreme Court in **“Shivamma (Dead) by LRs Vs. Karnataka Housing Board & Others” Civil Appeal No.11794 of 2025 decided on 12.09.2025**. As such, no ground is made out for condoning inordinate delay of 45 days. Present application accordingly stands **dismissed**.

MAIN CASE

Present appeal has been filed by the claimant against the Award dated 20.09.2013 passed by the learned HLS, Commissioner, under the Employee’s Compensation Act, 1923, Circle 6, Gurgaon, whereby Application No.4 filed by the claimant under the Employee’s Compensation Act, 1923 in respect of death of Munna Kumar, has been dismissed. The three claimants are the parents and widow of deceased Munna Kumar.



2. It is inter-alia submitted by learned counsel for the appellant that the claim application was wrongly dismissed as the learned Authority failed to appreciate that the deceased Munna was only 22 years old at time of death. However, as evident from the medical record, the deceased was a heart patient. The deceased was employed as a Helper with the respondent. On the date of the incident 14.03.2012, he had performed night duty, involving physical labour and continuous exertion. After completing his shift, he left the factory premises to proceed towards his residence along his regular route. While returning home, at a distance of only about 2 kilometres from the workplace, he suddenly collapsed and died. It is submitted that the Post-Mortem Report records both a pre-existing cardiac condition and an empty stomach, confirming that the deceased had not consumed any food after duty and was still in direct continuation of his return journey from work. There was no intervening activity, deviation, or break between completion of duty and the location of his death. The sequence of events establishes that the death occurred immediately after duty, during the ordinary act of returning home, which is therefore, incidental and connected to employment.

3. Ld. Counsel submits that the Claim has been wrongly denied solely on the basis of Pre-Existing Disease. It is contended that the learned Commissioner has erred in law and on facts in denying the claim on the ground that the deceased suffered from a pre-existing cardiac condition,



without appreciating that the existence of a prior disease does not bar compensation under the Employees' Compensation Act if the employment even marginally contributes to, accelerates, precipitates, or aggravates the fatal outcome. The finding is perverse as it proceeds on the erroneous assumption that a worker with any underlying ailment is automatically excluded from statutory protection, contrary to the settled principle that the employer takes the employee "as he is."

4. Ld. Counsel submits that there is no finding or discussion by the learned Commissioner in respect of the acceleration due to stress and strain of work faced by the deceased. Thus, the impugned order is vitiated for complete non-consideration of the crucial aspect that the deceased had performed night-duty as a Helper, and the physical exertion, fatigue, and stress associated with such labour could have accelerated or precipitated the cardiac event. The learned Commissioner has failed to examine the proximate timing of the death-occurring barely 2 kilometres from the workplace while the deceased was returning home immediately after duty- and has not rendered any finding on whether the strain of employment acted as a triggering or aggravating factor. The omission to assess acceleration or aggravation amounts to ignoring binding jurisprudence, thereby rendering the order unsustainable.

5. It is submitted that even AW-2 the medical witness, admitted in cross-examination that "*stress and strain may be possible*" which



supports the inference that employment-related exertion contributed to the death. This admission strengthens the causal nexus and undermines the Commissioner's finding that the death was purely natural or unrelated to work. It is reiterated that the presence of a pre-existing heart condition does not absolve liability, as it is settled law that if employment strain accelerates or aggravates a latent disease, the death is deemed to arise out of employment. Munna's young age, strenuous helper duties, night-shift fatigue, and exertion while returning home clearly precipitated the cardiac event, making the employer fully liable despite any prior condition.

6. It is submitted that the learned Commissioner failed to appreciate that Munna, aged 22 years, collapsed barely 2 kilometres from the workplace while returning home immediately after completing night duty, thereby establishing an unbroken nexus between his employment and the fatal event. The law is well settled that the journey from workplace to residence is incidental to employment and any mishap occurring during this period is treated as arising out of and in the course of employment. Employment does not terminate the moment a worker steps outside the gate; therefore, the death, occurring immediately after duty during the return journey, squarely attracts statutory liability.

7. Ld. Counsel argues that to establish an injury "arising out of employment," the law requires only a reasonable causal connection and not scientific certainty, and compensation must follow if employment even



probabilistically contributed to the death. In the present case, the proximity in time and distance to duty, the deceased's young age, and the PMR showing an empty stomach together establish a clear and direct nexus between the employment and the fatal collapse. The PMR records an empty stomach, clearly showing that the deceased had not consumed any food after duty and was still in direct continuation of his return journey from work. This circumstance reinforces the continuous nexus between employment, exertion, the homeward transit, and the fatal collapse.

8. In support of his contentions, learned counsel relies upon judgments of Hon'ble Supreme Court in **Daivshala v. Oriental Insurance Co. Ltd., (SC) : Law Finder Doc ID # 2756270**; **Messrs Machinnon Mackenzie and Co. Pvt. Ltd. v. Ritta Farnandes (SC) : Law Finder Doc Id # 389709**; judgments of Gujarat High Court in **Shantaben Thakor v. New Raipur Mills Co. Ltd. (Gujarat) : Law Finder Doc ID # 328958**; and **Sarangpur Cotton Manufacturing Co. Ltd. v. Dev Karsan wd/o Krishnan Vashram (Gujarat) : Law Finder Doc ID # 467312**.

9. No other argument is made on behalf of the appellant. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellant.

10. From a perusal of the Post-Mortem Report (Ex.AW2/1), it is established that the deceased was a heart patient; wherein it is recorded that III-Thorax, Sr. No.6 shows that the Dr. diagnosed as under "*Enlarged,*



Weighing 390 gram, Thickened Muscular Ventricular Walls, Yellowish Plaques Seen Over Myocardial Surface, Both Main Stem Coronaries, Show More than 60% Atheromatous Blockage with Multiple Clots" which shows that the deceased was a heart patient.

11. The fact that the deceased was a heart patient is also proved from the evidence of AW1 Dr. Deepak Mathur, who had admitted the said fact in his cross-examination.

12. Notwithstanding the fact that from the above it would appear that the deceased was a heart patient, there is nothing on record to connect his death with his employment. In this regard, it is firstly imperative to note that in absolute contrast of the above noted arguments made on behalf of the appellant before this Court, it was the pleaded case of the appellant in the Claim Application that the deceased had been '*murdered*' by the respondents. However, during the proceedings, the claimants had inexplicably turned their said pleaded case on its head and taken a thoroughly contrary stand - to the effect that the deceased had died due to heart attack '*caused due to stress and strain of employment*'. Clearly, the stark change in stance has been engineered only with a view to procure compensation. On a direct Court query, learned counsel for the appellant has been unable to give any explanation for this sudden change of plea. Even the assertion of the appellant that deceased had remained hungry till 1 am at night, resulting in stress and strain to him and therefore, resulting



in heart attack, is a puerile afterthought manufactured by the claimants in abject contradiction of their previous claim.

13. Secondly, there is nothing on record to show that death of Munna Kumar was caused due to any stress or strain undergone by him in the course of his employment. Even as per the Post-Mortem Report, there is no mention of any stress and strain caused to the deceased. The claimants have tried desperately to connect the heart attack of the deceased with his employment by resorting to far-fetched arguments based in assumptions and presumptions. However, the claimants have miserably failed to prove that the heart attack had occurred due to any stress and strain caused in the course of employment or working conditions. This is fortified from the fact that death of the deceased has not occurred in the premises of the respondent-Company, but the deceased was found at a distance of about 2 kms away from the Company premises. For this reason, as well, no connection is made out between the death of Munna Kumar and his job. Even no witness has been produced by the claimants to prove that deceased had faced any stress and strain on the day of his death in the course of discharging his duties. The claimants have also produced no evidence to show that deceased was on Night Shift. Moreover, Deceased was employed as a Helper; and the said job profile also cannot be stated to carry such onerous responsibility either physical or mental so as to cause heart attack in the normal discharge of duty. In any event, nothing



whatsoever has been brought to the notice of this Court to remotely indicate that any stress was caused to the deceased in the course of his employment on 14.3.2012 to have caused his death.

14. It has also come on record that the respondent has paid Rs.60,000/- to the wife of the deceased on humanitarian ground.

15. In the facts and circumstances of the present case, it would be apposite to refer to judgment of the Hon'ble Supreme Court in **Shakuntala Chandrakant Shreshti v. Prabhakar Maruti Garvali, (SC) : Law Finder Doc Id # 124871** wherein it is held that: –

“19. There are a large number of English and American decisions, some of which have been taken note of in ESI Corporation (supra), in regard to essential ingredients for such finding and the tests attracting the provisions of Section 3 of the Act.

The principles are :

(1) There must be a causal connection between the injury and the accident and the accident and the work done in the course of employment.

(2) The onus is upon the applicant to show that it was the work and the resulting strain which contributed to or aggravated the injury.

(3) If the evidence brought on records establishes a greater probability which satisfies a reasonable man that the work contributed to the causing of the personal injury, it would be enough for the workman to succeed, but the same would depend upon the fact of each case.



Injury suffered should be a physiological injury. Accident, ordinarily, would have to be understood as unforeseen or uncomprehended or could not be foreseen or comprehended. A finding of fact, thus, has to be arrived at, inter alia, having regard to the nature of the work and the situation in which the deceased was placed.

20. There is a crucial link between the causal connections of employment with death. Such a link with evidence cannot be a matter of surmise or conjecture. If a finding is arrived at without pleading or legal evidence the statutory authority will commit a jurisdictional error while exercising jurisdiction.

21. An accident may lead to death but that an accident had taken place must be proved. Only because a death has taken place in course of employment will not amount to accident. In other words, death must arise out of accident. There is no presumption that an accident had occurred.

22. In a case of this nature to prove that accident has taken place, factors which would have to be established, inter alia, are :

- 1. stress and strain arising during the course of employment*
- 2. nature of employment*
- 3. injury aggravated due to stress and strain*

The deceased was traveling in a vehicle. The same by itself can not give rise to an inference that the job was strenuous.

23. Only because a person dies of heart attack, the same does not give rise to automatic presumption that the same was by way of accident. A person may be suffering from a heart disease although he may not be aware of the same. Medical opinion will be of relevance providing guidance to court in this behalf.

24. Circumstances must exist to establish that death was caused by reason of failure of heart was because of stress and strain of work.



Stress and strain resulting in a sudden heart failure in a case of the present nature would not be presumed. No legal fiction therefor can be raised. As a person suffering from a heart disease may not be aware thereof, medical opinion therefore would be of relevance. Each case, therefore, has to be considered on its own fact and no hard and fast rule can be laid down therefor.

XXX XXX XXX

30. Unless evidence is brought on record to elaborate that the death by way of cardiac arrest has occurred because of stress or strain, the Commissioner would not have jurisdiction to grant damages. In other words, the claimant was bound to prove jurisdictional fact before the Commissioner. Unless such jurisdictional facts are found, the Commissioner will have no jurisdiction to pass an order. It is now well-settled that for arriving at a finding of a jurisdictional fact, reference to any precedent would not be helpful as a little deviation from the fact of a decided case or an additional fact may make a lot of difference by arriving at a correct conclusion. For the said purpose, the statutory authority is required to pose unto himself the right question."

(Emphasis added)

16. Again in **Jyothi Ademma v. Plant Engineer, Nellore, (SC) : Law**

Finder Doc ID # 123028, the Hon'ble Apex Court reiterated that:-

"6. Under Section 3(1) it has to be established that there was some causal connection between the death of the workman and his employment. If the workman dies a natural result of the disease which he was suffering or while suffering from a particular disease he dies of that disease as a result of wear and tear, of the employment no liability would be fixed upon the employer."



17. Reliance may also be placed upon judgment of Madras High Court in **S. Mahalakshmi v. Management, Tamil Nadu Cements Corporation, (Madras) (Madurai Bench) : Law Finder Doc ID # 871637**, wherein it is held as under:-

*“Workmen's Compensation Act, 1923 Sections 3 and 30
Rejection of claim - Same held to be justified, when the causal connection between death and employment, not proved on the record.”*

18. This Court is well aware that the EC Act is a welfare legislation and is to be interpreted liberally, however, in the peculiar facts and circumstances of the present case, the appellant can derive no benefit from the aforesaid relied upon judgments, which are even otherwise, distinguishable on facts and law.

19. In view of the above discussion, the present appeal is **dismissed** on grounds of delay as well as on merits.

20. Pending application(s) if any also stand(s) disposed of.

03.12.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes