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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Judgment reserved on: 13th January 2025**
Judgment pronounced on: 04 February 2025

+ **CM(M) 42/2025 & CM APPL Nos. 1675/2025, CM 1673/2025**

ORIENTAL INSURANCE COMPANY LIMITED.....Petitioner

Through: Mr. Apoorv Sarvaria,
Ms. Yashika Sarvaria,
Mr. Sahaj Aggarwal and
Ms. Simran Chadha,
Advs.

versus

M/S GLOBE CAPITAL MARKET LIMITED

.....Respondent

Through: Ms. Dipika Prasad and
Mr. S.S. Sobti, Advs.

CORAM:
HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T

RAVINDER DUDEJA, J.

1. Present petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 11.07.2024, passed by National Consumer Disputes Redressal Commission [“NCDRC”], whereby, the National Commission has dismissed the revision petition bearing Revision Petition bearing RP No. 1773/2024, filed by the petitioner under Section 58(1)(b) of the Consumer Protection Act, 2019 on the ground of there being a delay of 127 days



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in filing the said petition.

2. Brief facts of the matter are that respondent filed claim with the petitioner under the Stock Broker's Indemnity Insurance Policy, claiming that it had suffered losses to the tune of Rs. 9,50,000/- on account of negligence of its employee.

3. On the basis of the examination conducted by the petitioner and the report of the Surveyor, the claim of the respondent was rejected and the claim file was closed.

4. Respondent filed a Consumer Complaint bearing CC No. 1747/2008 before the District Consumer Disputes Redressal Forum.

5. The District Commission vide order dated 10.03.2025, dismissed the complaint filed by the respondent.

6. Respondent thereafter filed an appeal before the Delhi State Consumer Disputes Redressal Commission [**"SCDRC"**] against the order dated 10.03.2025 of the District Commission.

7. The State Commission vide order dated 01.03.2023, allowed the appeal of the respondent and directed the petitioner to pay to the respondent Rs. 9,50,000/- as the loss suffered, Rs. 2000/- for mental agony and harassment and Rs. 50,000/- for cost of litigation.

8. Feeling aggrieved, petitioner filed a revision petition under Section 58(1)(b) of the Consumer Protection Act, 2019 along with an application, seeking condonation of delay. The delay was of 127 days, though mistakenly, the same was mentioned as 31 days in the application seeking condonation of delay.

9. Vide impugned order dated 11.07.2024, the NCDRC dismissed



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the application seeking condonation of delay on the ground that there was no sufficient cause to condone the delay in filing the revision petition and accordingly also dismissed the revision petition being barred by limitation.

10. Learned counsel for the petitioner has submitted that National Commission has not considered properly, the well explained delay in filing the revision petition. It is submitted that matter had to proceed at different levels before the petitioner could finally get permission to file the revision petition.

11. It is submitted that National Commission failed to consider the factors which contributed to the delay, inasmuch as, petitioner had to first seek opinion from the lawyers for filing the revision petition, which took considerable time and thereafter, file was sent to the Head Office. Since the policy was old, the Regional Office took its time to handover the relevant documents and the same were provided only in the month of May 2023. The Delhi office after receiving the documents, handed over the same to the counsel for filing the revision petition. The delay thereafter occurred on the part of the counsel as at first the counsel was not well and later the file was misplaced in her office. It is thus submitted that delay in filing the revision petition was neither intentional nor deliberate.

12. It is argued that the National Commission should have adopted a pragmatic approach to decide the case on merits rather than to thwart the cause at the very threshold on the ground of limitation. In support of its arguments, learned counsel placed strong reliance on the



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decision of the Supreme Court on the case of **Collector (LA) Vs. Katiji, (1987) 2 SCC 107.**

13. It is submitted that NCDRC while dismissing the revision petition, has granted relief to the respondent which it was not entitled to as per law.

14. Before going into the reasons furnished by the petitioner, it is necessary to consider various landmark decisions on the point of limitation.

15. In **Collector (LA) Vs. Katiji (supra)**, while considering “sufficient cause” in the light of Section 5 the Limitation Act, 1963, Supreme Court pointed out various principles for adopting liberal approach in condoning the delay. Such principles are reproduced as under:-

“(1) Ordinarily a litigant does not stand to benefit by lodging an appeal late.

(2) Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

(3) 'Every day's delay must be explained' does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

(4) When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

(5) There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides . A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

(6) It must be grasped that judiciary is respected not on account of its power to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so.”



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By showing the above principles, the learned ASG submitted that there is no warrant for according step motherly treatment when the "State" is the applicant. It is relevant to mention that in that case, the delay was only of four days."

16. In the case of **Post Master General & Ors. Vs. Living Media India Limited & Anr., (2012) 3 Supreme Court Cases 563**, the Supreme Court held as hereunder:-

"28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government."

17. The decision made in the case of Post Master General (*supra*) was again reiterated in the case of **University of Delhi Vs. Union of India & Ors., (2020) 13 Supreme Court Cases 745**, wherein, the Apex Court held as under:-

"23. From a consideration of the view taken by this Court through the decisions cited *supra* the position is clear that, by and large, a liberal approach is to be taken in the matter of condonation of delay . The consideration for condonation of delay would not depend on the status of the party, namely, the Government or the public bodies so as to apply a different yardstick but the ultimate consideration should be to render even-handed justice to the parties. Even in such case the condonation of long delay should not be automatic since the accrued right or the adverse consequence to the opposite party is also to be kept in perspective . In that background while considering condonation of delay, the routine explanation would not be enough but it should be in the nature of indicating " sufficient cause" to justify the delay which will depend on the backdrop of each case and will have to be weighed carefully by the courts based on the fact situation. In *Katij*, the entire conspectus relating to condonation of delay has been kept in focus.



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However, what cannot also be lost sight of is that the consideration therein was in the background of dismissal of the application seeking condonation of delay in a case where there was delay of four days pitted against the consideration that was required to be made on merits regarding the upward revision of compensation amounting to 800%.”

18. Similarly, in **Pathapati Subba Reddy (died) by L.Rs. v. The Special Deputy Collector (LA), 2024 SCC OnLine SC 513**, Hon'ble Supreme Court has observed as under:—

“16. Generally, the courts have adopted a very liberal approach in construing the phrase ‘sufficient cause’ used in Section 5 of the Limitation Act in order to condone the delay to enable the courts to do substantial justice and to apply law in a meaningful manner which subserves the ends of justice. In *Collector, Land Acquisition, Anantnag v. Katiji*, this Court in advocating the liberal approach in condoning the delay for ‘sufficient cause’ held that ordinarily a litigant does not stand to benefit by lodging an appeal late; it is not necessary to explain every day’s delay in filing the appeal; and since sometimes refusal to condone delay may result in throwing out a meritorious matter, it is necessary in the interest of justice that cause of substantial justice should be allowed to prevail upon technical considerations and if the delay is not deliberate, it ought to be condoned. Notwithstanding the above, howsoever, liberal approach is adopted in condoning the delay, existence of ‘sufficient cause’ for not filing the appeal in time, is a condition precedent for exercising the discretionary power to condone the delay. The phrases ‘liberal approach’, ‘justice-oriented approach’ and cause for the advancement of ‘substantial justice’ cannot be employed to defeat the law of limitation so as to allow stale matters or as a matter of fact dead matters to be revived and re-opened by taking aid of Section 5 of the Limitation Act.”

19. In the case of **Post Master General & Ors. Vs. Living Media India Limited & Anr., (2012) 3 Supreme Court Cases 563**, the Supreme Court held as under:-

“29. In our view, it is 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



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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 the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.”

20. It is true that as held in *Katiji (supra)* everyday’s delay need not be explained with such precision but the fact remains that a reasonable and acceptable explanation is very much necessary.

21. The delay in the instant case in filing the revision is 127 days. There can be no dispute that in this matter, the persons involved in the decision making process and filing the revision must have been well aware and conversant with the issues involved including the period of limitation as prescribed in the Consumer Protection Act. They cannot claim that they have a separate period of limitation when the insurance company was possessed with competent persons familiar with the court proceedings. The explanation depicts the casual approach unmindful of the Law of Limitation despite being aware of the position of law. The reasons assigned for delay are completely vague. There is no plausible and acceptable explanation coming-forth from the petitioner company. The reason assigned that petitioner has a very good case on merits, is not a sufficient cause to condone the delay.

22. While dismissing the application for condonation of delay, in Para-7, National Commission observed as under:-

“7. When this Bench proceeds to evaluate the submissions made by the learned counsel and the pleas which have been raised it feels constrained to observe that the grounds pleaded in the application seeking condonation of delay fall short of being called good grounds for condoning the delay. The knowledge of Order and the



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copy of the same was received within two weeks of the passing of the impugned Order. If the Regional Office took a long time to hand over the relevant documents it only speaks of the departmental inefficiency and managerial indifference for which none else is to blame. Similarly, the misplacement of the file in the office is also much too vague a plea to be accepted on its face value. At any rate the hiatus which separates the date of the impugned Order and the date of filing the revision petition is long drawn out gap and in order to bridge up the same it needs very credible and convincing explanations which are wholly lacking in the present matter. It is true that while evaluating the sufficiency of the cause, this Commission adopts a pragmatic approach and not a pedantic one and makes due allowance for the practical side of a public sector department. But while saying so it must not be misconstrued to imply that in the name of being a public sector department such a long leash may ever be granted to any authority which may resultantly reduce the statutory law on the point of limitation into complete insignificance.”

23. In **Anshul Aggarwal Vs. New Okhla Industrial Development Authority (2011) 14 Supreme Court Cases 578**, the Supreme Court held that while deciding an application for condonation of delay, the Court has to keep in mind that special period of limitation has been prescribed under the Consumer Protection Act, 1986, for filing appeals and revisions in consumer matters and the object of expeditious adjudication of the consumer disputes will get defeated if the Courts are to entertain highly belated petitions filed against the orders of the Consumer Foras.

24. There appears to be no illegality or impropriety in the order passed by the National Commission, and therefore, the impugned order calls for no interference by this Court.

25. Present petition has been filed under Article 227 of the Constitution of India. Explaining the scope of jurisdiction under Article 227, the Supreme Court in the case of **Garment Craft Vs.**



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Prakash Chand Goel, (2022) 4 SCC 181, observed that the High Court exercising supervisory jurisdiction does not act as a Court of Appeal or to appreciate, re-weigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. High Court is not to substitute its own decision on the facts and conclusion, for that of the Inferior court or Tribunal. The dereliction of duty for flagrant abuse, violation of fundamental principles of law or justice. The power under Article 227 is exercised sparingly in appropriate cases like when there is no evidence at all to justify, the finding is so perverse that no reasonable person can possibly come to such a conclusion that the Court or Tribunal has come to. It is axiomatic that such discretionary relief must be exercised to ensure there is no miscarriage of justice.

26. Similarly, the scope and jurisdiction under Article 227 has also been explained by the Supreme Court in the case of **Estralla Rubber Vs. Dass Estates (P) Ltd. (2001) 8 SCC 97** as under:-

“6. The scope and ambit of exercise of power and jurisdiction by a High Court under Article 227 of the Constitution of India is examined and explained in a number of decisions of this Court. The exercise of power under this article involves a duty on the High Court to keep inferior courts and tribunals within the bounds of their authority and to see that they do the duty expected or required of them in a legal manner. The High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals. Exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected. It is also well settled that the High Court while acting under this article



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cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record. The High Court can set aside or ignore the findings of facts of an inferior court or tribunal, if there is no evidence at all to justify or the finding is so perverse, that no reasonable person can possibly come to such a conclusion, which the court or tribunal has come to.”

27. The exercise of discretionary powers while refusing to condone the delay need not be interfered under Article 227 of the Constitution, unless the order shows complete lack of jurisdiction or perversity. The impugned order dated 11.07.2024 passed by the National Commission and State Commission do not reflect the same, and therefore, the present petition is hereby dismissed.

RAVINDER DUDEJA, J.

February 04, 2025

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