



2025:DHC:476



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 20th January, 2025*+ **MAC.APP. 54/2025**

MS. UPASNA GUNDH & ORS.Appellants

Through: Ms. Geeta Verma and Mr.
Riyaan Bhola, Advs.

versus

ORIENTAL INSURANCE CO .LTD.

AND ORS.Respondents

Through:

CORAM:**HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)****CM APPL. 3355/2025 (exemption from filing certified copies of annexures, attestation of affidavit and court fees)**

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

MAC.APP. 54/2025 & CM APPL. 3354/2025

3. CM APPL. 3354/2025 is filed under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 3432 days in filing the above-captioned appeal challenging the judgement dated 27.04.2015 (hereafter 'the impugned judgement') passed by the learned Motor Accident Claims Tribunal, Rohini Courts, Delhi in MACT Case No. 272/13/10 for enhancement of the compensation awarded therein.

4. The applicants/ appellants have explained the delay in filing the appeal in the following manner:

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- 4.1. It is stated that the impugned judgement was passed on 27.04.2015, wherein the Insurance Company/ Respondent No. 1 was directed to pay a compensation of Rs.53,31,000/- along with interest at the rate of 9% p.a. from the date of filing the claim petition.
- 4.2. Thereafter, Respondent No. 1 filed an appeal being MAC APP No. 526/2015 challenging the impugned judgement dated 27.04.2015 before this Court, wherein by order dated 24.08.2015, this Court issued notices and directed the release of 50% of the compensation payable to the appellants, while the remaining 50% was directed to be kept in an interest bearing fixed deposit for a period of one year with UCO Bank, Delhi High Court Branch, New Delhi.
- 4.3. It is stated that during the period from 2015 to 2019, Appellant No. 1 herein was engaged in managing the funds partly received by this Court and arranging more funds to enable her children/ Respondent Nos. 2 and 3 to pursue their education abroad.
- 4.4. It is stated that Appellant No. 1 is a housewife, who was entangled in arranging and managing funds in addition to running her daily routine chores, due to which she could not be active in pursuing the litigation and challenging the impugned judgement dated 27.04.2015 passed by the learned Motor Accident Claims Tribunal, as well as the order dated 24.08.2015 passed by this Court, staying the release of 50% of the



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compensation awarded.

- 4.5. During the period from 2020 to 2022, the Appellant No. 1, was barely making ends meet and could not pursue the litigation.
- 4.6. In April 2022, the appellants engaged a counsel for the purpose of filing an application challenging the order dated 24.08.2015 and for filing an appeal challenging the impugned judgement dated 27.04.2015 for which she had paid fees to the said counsel, however the conduct of the counsel was unethical, who merely wasted the time, money and efforts of the appellants, without taking any appropriate steps in this regard. It is stated that a Complaint Case bearing No. 77713/2024 has already been filed by the appellants against the said counsel, before the learned Judicial Magistrate, Rohini Courts, Delhi.
- 4.7. It is further stated that due to the afore-mentioned factors, the appellants were not in a position to file an appeal challenging the impugned judgement dated 27.04.2015 for enhancement of compensation awarded therein within the prescribed limitation period, and the same has been filed at the first available opportunity.
5. At the outset, it is pertinent to note that the accident took place on 14.03.2010. The learned Motor Accident Claims Tribunal awarded compensation of ₹53,31,000/- along with interest @ 9% p.a. from the date of filing the claim petition, in favor of the appellants on 27.04.2015. It is apparent that the



appellants did not file the appeal within the period prescribed and approached this Court by way of this present appeal only in December, 2024, after a delay of 3432 days.

6. Even as per the case of the appellants, a counsel was engaged for filing the appeal only in April, 2022, whereas the limitation period had expired much prior to the said date. It is well-settled that each day of the delay is required to be explained. In the present case, the delay is substantial and no particulars to explain the delay have been provided.

7. Even if, *arguendo*, it is assumed that the appellants had been misled by the earlier counsel, a delay of over nine years cannot be held to be a reasonable delay. The parties must remain proactive in pursuing their rights and remedies and cannot be allowed to neglect their rights for several years and then suddenly decide to file an appeal.

8. It is observed in a number of cases that the appeals are filed belatedly and the blame is put on the counsel for not taking appropriate steps in filing an appeal despite instructions. If such arguments are accepted by the Courts, the appeals would be filed even after decades, making a mockery of the judicial process.

9. It is well settled that while dealing with an application for condonation of delay under the Limitation Act, 1963 or any other similar statute, a liberal and justice-oriented approach must be adopted by the Courts, when 'sufficient cause' had been shown by the applicant for not having filed the appeal within the period prescribed. In the present case, the explanations rendered in the application do not constitute sufficient cause for the nine year



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delay in filing the present appeal, rather it reflects negligence on part of the applicant/ appellant.

10. In *Pathapati Subba Reddy v. LAO* : 2024 SCC OnLine SC 513, the Hon'ble Apex Court held that if applications for condoning inordinate delay are allowed, there would be no finality to the proceedings and litigations will be made immortal. The Hon'ble Court noted that the power to condone delay is discretionary in nature, and may not be exercised even in cases where sufficient cause is explained by the applicant and emphasised the need to draw an equilibrium between adopting a liberal approach and in implementing the statute of limitation, as it stands. The relevant portion of the judgement reads as under:

*"7.The law of limitation is founded on public policy. It is enshrined in the legal maxim "interest reipublicae ut sit finis litium" i.e. it is for the general welfare that a period of limitation be put to litigation. **The object is to put an end to every legal remedy and to have a fixed period of life for every litigation as it is futile to keep any litigation or dispute pending indefinitely.** Even public policy requires that there should be an end to the litigation otherwise it would be a dichotomy if the litigation is made immortal vis-a-vis the litigating parties i.e. human beings, who are mortals.*

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*12.In view of the above provision, the appeal which is preferred after the expiry of the limitation is liable to be dismissed. The use of the word 'shall' in the aforesaid provision connotes that the dismissal is mandatory subject to the exceptions. Section 3 of the Act is peremptory and had to be given effect to even though no objection regarding limitation is taken by the other side or referred to in the pleadings. In other words, it casts an obligation upon the court to dismiss an appeal which is presented beyond limitation. This is the general law of limitation. The exceptions are carved out under Sections 4 to 24 (inclusive) of the Limitation **Act but we are concerned only with the exception contained in Section 5 which empowers the courts to admit an appeal even if it is preferred after the prescribed period provided the proposed appellant gives***

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'sufficient cause' for not preferring the appeal within the period prescribed. In other words, the courts are conferred with discretionary powers to admit an appeal even after the expiry of the prescribed period provided the proposed appellant is able to establish 'sufficient cause' for not filing it within time. **The said power to condone the delay or to admit the appeal preferred after the expiry of time is discretionary in nature and may not be exercised even if sufficient cause is shown based upon host of other factors such as negligence, failure to exercise due diligence etc.**

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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 and Ors. vs. Katiji and Ors.*², 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.'**

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23. In Basawaraj and Anr. vs. Special Land Acquisition Officer, this Court held that the discretion to condone the delay has to be exercised judiciously based upon the facts and circumstances of each case. The expression 'sufficient cause' as occurring in Section 5 of the Limitation Act cannot be liberally interpreted if negligence, inaction or lack of bona fide is writ large. It was also observed that even though limitation may harshly affect rights of the parties but it has to be applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to



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condone the delay on equitable grounds.

(emphasis supplied)

11. In view of the above, this Court finds no ground to condone the delay in filing the present appeal. The application is dismissed. Consequently, the appeal is dismissed on the ground of being barred by limitation.

AMIT MAHAJAN, J

JANUARY 20, 2025