



2025:DHC:584



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 31st January, 2025*+ **MAC.APP. 91/2025**

RAJENDER

.....Appellant

Through: Mr. Ahwan Mohapatra,
Adv.

versus

MOHD MOBIN & ORS.

.....Respondents

Through:

CORAM:**HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)****CM APPL. 6261/2025 (for exemption)**

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

MAC.APP. 91/2025, CM APPL. 6259/2025, CM APPL. 6260/2025 & CM APPL. 6262/2025

3. By way of the present appeal, the appellant challenges the award dated 21.05.2022 pursuant to which the liability to pay the compensation has been fastened upon the appellant.
4. It is stated that the appellant was the owner of the offending vehicle. The accident led to the death of Akram Ali and a claim petition was filed by his legal heirs.
5. The present appeal is filed with an inordinate delay of 756 days and there is further delay of 80 days in re-filing the appeal.
6. The only reason mentioned for not filing the appeal within

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Signing Date: 03.02.2025 **MAC.APP. 91/2025**

18:56:53

Page 1 of 6



2025:DHC:584



the statutory time period is that though the appellant had appeared before the learned Tribunal in the year 2017 when the learned Tribunal directed the appellant to file an affidavit of asset and income, however, on the subsequent dates, the appellant did not appear since he was under the impression that his duty to appear before the learned Tribunal is over.

7. It is contended that the lawyer who was representing the appellant at that stage, had informed the appellant that he is not required to appear.

8. On being pointedly asked, the learned counsel for the appellant submits that the name of the lawyer who had suggested such course is not known.

9. No other ground has been taken by the applicant to justify condonation of inordinate delay in filing the present appeal. In the opinion of this Court, no worthy explanation has been provided for not filing the appeal in time.

10. Even if, *arguendo*, it is assumed that the appellant had been misled by the earlier counsel, a delay of more than two 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.

11. In *Oriental Aroma Chemical Industries Ltd. v. Gujarat Industrial Development Corpn.* : (2010) 5 SCC 459, the Hon'ble Apex Court discussed the scope of discretion of the Court in condoning delay and held that a liberal approach may be taken in condoning a delay of short duration, while a stricter



approach is to be taken in cases involving inordinate delay. Although, in the said case, the delay in filing the appeal was on part of the State Corporation, the Hon'ble Apex Court added that the same yardstick is to be applied for deciding applications of private individuals. The relevant paragraph of the judgement reads as under:

“14. ...The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time.”

12. In ***Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai*** : (2012) 5 SCC 157, the Hon'ble Apex Court emphasized that condonation of delay is a discretionary power of the Court, and in exercising this power, the bona fides of the applicant play a crucial role. The relevant paragraphs of the judgement read as under:

“23. What needs to be emphasised is that even though a liberal and justice-oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost.

24. What colour the expression “sufficient cause” would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack



bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay.”

(emphasis added)

13. Upon careful consideration, it is evident that the application filed by the appellant seeking condonation of delay is bereft of any such reasons disclosing any sufficient cause. The onus lies on the appellant to establish a credible and justifiable explanation for failing to file the appeal within the prescribed time frame.

14. It is to be kept in mind that the compensation sought for is under benevolent legislation to mitigate the sufferings of persons who lose an earning member of the family in a motor accident besides suffering other non-pecuniary losses. The lackadaisical propensity exhibited in filing the appeal reflects a lack of diligence and seriousness on the part of the appellant, undermining the purpose of such welfare-oriented legislation.

15. Even otherwise on merits, the only ground raised by the learned counsel for the appellant is that there are other vehicles also which were involved in the accident and the liability could not have been fastened on the appellant alone.

16. As noted by the learned Tribunal, the accident led to registration of FIR being FIR No. 474/2016 under Sections 279/337/304A of the Indian Penal Code, 1860 ('IPC') which mentions the vehicle owned by the appellant as the offending vehicle, which was driven by one, Sunil.

17. The Detailed Accident Report ('DAR') was filed by the



2025:DHC:584



Police which was treated as a claim petition under Section 166(4) of the Motor Vehicles Act, 1988 ('MV Act').

18. According to the DAR, on 19.08.2016, the deceased met with a road accident with a motorcycle bearing No. HR 26 BN 8360. After the accident, the victim was taken to SRHC Hospital for treatment where the Doctor declared him dead. During investigation, the offending vehicle was found to be owned by the appellant and the vehicle was also uninsured.

19. The appellant as well as the driver, though had put their appearance before the learned Tribunal on 05.04.2017, however, failed to file any written statement despite opportunity being granted. They also failed to appear on subsequent dates.

20. The learned Tribunal took note of the deposition of PW-1 who stated that the offending vehicle was being driven in a rash and negligent manner and was driven at a very high speed by its driver. The testimony remains unchallenged.

21. It is also undisputed that the FIR with regard to the present accident also led to filing of the chargesheet.

22. The learned Tribunal noted that the FIR was registered promptly and without any delay and the driver of the offending vehicle was chargesheeted as an accused for offences punishable under Sections 279/337/338/304A of the IPC and Sections 3/181 of the MV Act.

23. It is not the case of the appellant that the chargesheet or any subsequent orders passed by the learned Trial Court have been challenged either by the driver or the appellant. The learned Tribunal rightly drew adverse inference against the

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18:56:53



2025:DHC:584



appellant and the driver of the offending vehicle and held them liable.

24. The Hon'ble Apex Court in the case of ***ICICI Lombard General Insurance Co. Ltd. v. Rajani Sahoo*** : 2025 SCC OnLine SC 8, while observing that there is no illegality in relying on such documents consisting of FIR and the final report prepared in relation to the accident in question by the police, for the purpose of considering the question of negligence in a motor vehicle accident case, held as under :

“9. Thus, there can be no dispute with respect to the position that the question regarding negligence which is essential for passing an award in a motor vehicle accident claim should be considered based on the evidence available before the Tribunal. If the police records are available before the Tribunal, taking note of the purpose of the Act it cannot be said that looking into such documents for the aforesaid purpose is impermissible or inadmissible.”

25. In view of the above, this Court finds no infirmity with the impugned award and the appeal is, therefore, dismissed on the ground of delay as well as on merits.

AMIT MAHAJAN, J

JANUARY 31, 2025

“SS”