



2025:DHC:9781



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 07.11.2025***+ **FAO 464/2018****MUKESH KUMAR**

.....Appellant

Through: **Mr. Praveen Suri and Mr. Sumit
Pandey, Advs.**

versus

ANIL KUMAR

.....Respondent

Through: **Mr. Bijay Kumar and Mr. Ashok
Nigam, Advs.****CORAM:****HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA****JUDGMENT (ORAL)****CHANDRASEKHARAN SUDHA, J.****CM APPL. 40797/2018**

1. The present application has been filed under Section 5 of the Limitation Act for condonation of delay of 826 days in filing the appeal under Section 30 of the Employees Compensation Act, 1923 (the Act). The appeal has been preferred challenging Annexure A-1 order dated 22.04.2016 of the Employees' Compensation Commissioner, West and New Delhi, in CEC/1/WD/102/14/305-306, whereby the appellant/claimant's claim for compensation on



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account of an injury alleged to have been sustained during the course of employment was rejected.

2. According to the appellant/claimant, on 02.05.2014, he was employed with the respondent, on which day he was sent to attend a complaint for repairing an air conditioner (AC) at D-146, Ajay Enclave, Subhash Nagar, New Delhi. While attending to the complaint and carrying out repairs, the AC unit exploded, as a result of which his left hand was grievously injured. The injury had led to amputation of his left hand below the elbow, leading to 70% permanent physical disability and a consequent loss of earning capacity. On 02.05.2014 itself, a crime, that is, FIR bearing No. 458/2014 was registered at Hari Nagar Police Station, New Delhi, against the respondent, alleging the commission of offences punishable under Sections 287 and 337 of the Indian Penal Code, 1860.

2.1. The appellant/claimant, on 22.09.2014, filed a claim petition before the Employees' Compensation Commissioner, New



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Delhi, seeking compensation for the injuries sustained. The claim was, however, dismissed on the ground that there was no employer–employee relationship between the appellant/claimant and the respondent.

2.2. The allegation in the application is that the appellant, an illiterate person, was unaware of the fact that his claim petition had been dismissed on 22.04.2016. The counsel earlier engaged by him was not regular in appearing before the Court. The appellant was never given a copy of the claim petition. Whenever the appellant/claimant used to inquire regarding the status of the claim petition, the counsel kept telling him that no decision had been taken on the same.

2.3. It is further alleged that the appellant sought the help of the present counsel to inquire about the crime registered. The counsel made necessary inquiries and informed him that his claim was dismissed on 22.04.2016. Thereafter, he applied for a certified copy of the impugned Order by the end of March 2018, which was



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ready on 10.04.2018. However, the same was supplied to him only by the middle of May 2018.

2.4. In July 2018, the appellant/claimant, through his present counsel, filed a writ petition bearing diary number 308072/2018, challenging Annexure A-1. A copy of the filing details of the said writ petition has been attached to the application. However, the Registry raised an objection stating that a writ petition was not maintainable. Thereafter, the defects were rectified by converting the writ petition into an appeal as provided under Section 30 of the Act, along with the present application.

3. The application is opposed by the respondent, who has filed a counter, contending that the appellant/claimant was personally appearing before the Employees' Compensation Commissioner and that he was well aware of the dismissal of the claim petition. It is further contended that there are no sufficient or *bona fide* reason(s) provided in the application explaining the delay.

4. It is submitted by the learned counsel for the



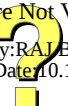
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appellant/claimant that, as the latter is an illiterate person and as the incident is established by registering of the crime, a lenient view may be taken and the delay be condoned. The submission is opposed by the learned counsel for the respondent, who submits that no cogent reasons are made out to condone the long delay.

5. Heard both sides.

6. The impugned order in this case is dated 22.04.2016. The appeal has been filed only on 29.09.2018, which is more than two years after the passing of the impugned Order. The appellant/claimant has put the entire blame on the counsel earlier engaged by him for the delay in filing the appeal. It is alleged that he had been in constant touch with the counsel. The then counsel is alleged to have repeatedly assured him that the claim was pending consideration before the authority concerned. He does not specify the date on which he is stated to have come to know of the impugned order. He has no case that, after he came to know of the dismissal, he had contacted his earlier counsel and sought an





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explanation as to why he had not been informed of the dismissal as soon as the order was passed. In the application itself, he has a case that the counsel earlier engaged by him was not regular in appearing before the court. If he was well aware of the fact that the counsel concerned was not diligent in prosecuting the matter, it is beyond my comprehension as to why the services of the said counsel were continued by the appellant. The reasons cited for the condonation of delay are therefore found insufficient.

7. For the reasons hereinabove stated, the application for condonation of delay is dismissed. Resultantly, the appeal shall also stand dismissed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

NOVEMBER 7, 2025/mj