A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.69 of 2008
CNR No. ODHC010010412008

(In the matter of application under Section 173(1) of the Motor Vehicles Act, 1988).

The New India Assurance Co. Ltd., Cuttack … ***Appellant***

-versus-

Susama Mishra & Another … ***Respondents***

For Appellant : ***Mr. P. Sinha, Advocate***

For Respondents :

CORAM:
JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT: 06.11.2026

G. Satapathy, J.

MACA No.69 of 2008 & MC No.169 of 2008

1. This judgment shall not only dispose of the instant Appeal, but also the application filed U/S.5 of the Limitation Act in MC No.169 of 2008 seeking for condonation of an inordinate delay of 654 days in preferring the Appeal against the impugned judgment dated 10.04.2006 passed by the learned 4th Motor Accident Claims Tribunal, Puri (in short, the "Tribunal")

in Misc. Case No.67/245 of 96/92 awarding compensation of Rs.42,000/- together with interest @ 7.5% per annum w.e.f. date of filing of the claim application on 09.03.1992 till its actual realization within one month thence to the claimant.

2. Heard, Mr. Pratap Aditya Sinha, learned counsel appearing on behalf of Mr. Mahitosh Sinha, learned counsel for the appellant, but notice issued against R-1 & R-2 remain unserved with postal endorsement no such addressee and insufficient address. Since the appeal is filed with a delay of 654 days, this Court wants to consider the grounds for condonation of delay at first before allowing the appellant for re-issuance of summons, since the appeal is pending w.e.f. 28.01.2008 and in the meantime more than 18 years 10 months have elapsed.

3. After having considered the rival submissions and upon perusal of record, there appears no dispute about the Appellant-insurance company

filing the Appeal with delay of 654 days, and the grounds put forth for condonation of such delay are stated in paragraphs-4 of the MC, which runs thus: -

> *"**a.** That though the judgment was pronounced on 10.4.2006, the appellant-insurance company was prosecuting its remedy by filing review/recall petition with a bonafide impression that the Learned Tribunal would consider the prayer of the appellant company and recall/review the order and exonerate the appellant from the liability.*
>
> ***b.** That sometime was consumed in prosecuting the review/recall petition for which the delay has been caused.*
>
> ***c.** That even though the recall/review petition was finally dismissed on 09.02.07, the Divisional Office, Bhubaneswar sought for further advice from their higher authority as to what further step would be taken by the insurance company to protect its interest.*
>
> ***d.** That sometime was required in the Divisional Office, Bhubaneswar to process the file, arrange the papers and transmit the same to the Regional Office seeking their advice in the matter, which was done during 2nd week of Jan, 2007.*
>
> ***e.** That the Regional Office, Bhubaneswar also required some considerable time to peruse the record and process the file for giving advice to prefer appeal through Cuttack D.O. II.*
>
> ***f.** That the Regional Office after taking appropriate decision sent the entire case record to their Cuttack D.O.II on 22.1.08 for preferring appeal.*

g. *That the Cuttack D.O.II received the file on 23.01.08 and after arranging the relevant documents transmitted the same on 25.1.08 to their counsel for filing appeal**.***

h. *That 26.1.08 and 27.1.08 being Saturday and Sunday, the appeal was filed on 28.1.08 without any further delay."*

4. It is, however, submitted on behalf of the Appellant that the delay was neither intentional nor deliberate; rather it was due to the reason beyond the control of the Appellant and, accordingly, it is prayed to take a liberal approach in condoning the delay.

5. There is in fact no quarrel over the position of law that an applicant can establish "sufficient cause" for not filing an Appeal within the prescribed statutory time limit, but the Court while dealing an application for condonation of delay should adopt a pragmatic approach to promote justice, however, the expression of "sufficient cause" cannot be stretched to cover the cases of absolute apathy, utter negligence or institutional complacency. One of the grounds under which the Appellant seeks for condonation of delay in this case is for arranging

documents, but in the context of arranging documents, this Court considers it profitable to refer to the decision in ***State of Madhya Pradesh Vrs. Bherulal; (2020) 10 SCC 654***, wherein the ***unavailability of the documents and the process of arranging documents*** have been advanced as reasons for condonation of delay, but rejecting the aforesaid pleas, the Apex Court has refused to condone the delay 663 days and dismissed the SLP by reiterating the principle as laid down in ***Post Master General and others Vrs. Living Media India Ltd. and another; (2012) 3 SCC 563.*** It is also not in dispute that what document(s) was/were arranged has/have never been specifically stated in the application for condonation of delay, but a mere bald statement like in this case that after arranging documents, the Appeal is filed; a liberal approach cannot be adopted. There cannot be any discrimination for adopting different method(s) in considering the condonation of delay, but the Courts absolutely treat everyone in the same standard of scale, be it a

corporate body or a private individual or a privileged person. Accordingly, the Government bodies, large corporation, and Tech Savvy entities are to be considered in the same legal standard as ordinary citizens in the matter of condonation of delay, however, the corporate entities like the Appellant in this Appeal cannot use the internal administrative mis-management, misplacement of files/documents or slow bureaucratic movement or delay in getting approval/sanction to file a litigation, as a shield to bypass the law of limitation. The law applies uniformly and large corporate entities or Government bodies do not enjoy a special status or a longer limitation period than an ordinary citizen. In ***Pathapati Subba Reddy (Died) by Legal Representatives and others Vrs. Special Deputy Collector (LA); 2024 SCC OnLine SC 513 / (2024) 12 SCC 336***, the Apex Court emphasized that the discretion U/S.5 of the Limitation Act must be exercised judiciously, while summarizing the followings in paragraph-28 for consideration of application for condonation of delay: -

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

***28.1. 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**;*

***28.2. 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**;*

***28.3.** 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;*

***28.4.** 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;*

28.5.** 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;

***28.6.** 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;*

28.7. Merits of the case are not required to be considered in condoning the delay*; and*

28.8. *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, tantamount to disregarding the statutory provision."*

6. Examining the present case on these parameters, the explanation provided by the insurer is entirely unconvincing and structurally deficient and the application for condonation of delay lacks precise chronological details and it fails to explicitly state the reasons for the delay. In the context of condonation of delay, this Court is also considered it apposite to refer to the decision in ***Post Master General (supra)***, wherein the Apex Court in paragraph-29 has explicitly stated and observed as under: -

*"**29.** In our view, it is the 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 their usual explanation that the file was kept pending for several months/ years 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 Department. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

7. What is interesting is that probably the insurer woke up from the deep slumber only to end up with this Appeal with delay of such long duration. In this situation, condoning the unexplained delay of such a long duration by way of liberal approach would just like paying premium on the institutional latches or negligence attributable/imputable to a Public Sector Company like the Appellant in this Appeal for its sheer gross negligence and utter apathy towards poor claimants. In other words, mere administrative negligence cannot constitute a "sufficient cause" and these assertion regarding internal files moving from one table to other table do not fulfill the legal requirements of explaining an inordinate delay. In view of the above facts and circumstance and on consideration of the averments taken in the

application for condonation of delay, this Court does not find any reasonable explanation as offered by the insurer to condone the delay, but condoning such immense or unmitigated delay without a legitimate day-to-day breakdown and without having any reasonable explanation, it would completely frustrate the principal objective of the Limitation Act, which is sounded on public policy to ensure finality to the litigation and protect legal rights from enduring vulnerability. In this situation, the Latin maxim ***"Dura lex sed lex"*** which means the law is harsh but it is the law stands attracted to the case of the Appellant-insurer. The aforesaid Latin maxim epitomizes that valid laws must be followed and enforced strictly, even if the outcome is severe, unfair, or inconvenient to a party in a specific case. Consequently, this Court finds that the Appellant-insurer has completely failed to demonstrate "sufficient cause" within the meaning of Section 5 of the Limitation Act and the application lacks merit and is a clear example of gross institutional negligence. Hence, delay of such a long duration

cannot be condoned merely because it is stated in the application that the delay was on account of arranging the documents and processing the file. Hence, it is ordered.

8. The MC No.169 of 2008 for condonation of delay of 654 days is, hereby, dismissed. As a necessary consequence, MACA No.69 of 2008 stands dismissed as barred by law of limitation at the admission stage. No order as to costs. The statutory deposit together with the accrued interest thereon be refunded to the insurer upon production of proof of deposit of such modified compensation.

(G. Satapathy)
Judge

Orissa High Court, Cuttack,
Dated the 9th day of November, 2026/Jayakrushna

Signature Not Verified
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Reason: Authentication
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