HC-KAR

NC: 2026:KHC:62183
MFA No. 3422 of 2024

CNR: KAHC010299242024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 3422 / 2024 (MV-I)

BETWEEN:

1. SANTHOSH KUMAR H P
   S/O PARSHIVAPPA,
   AGED ABOUT 33 YEARS,
   R/AT GUNDLUPET TALUK,
   BEGUR HOBLI, HOREYALA VILLAGE,
   CHAMARAJANAGAR DISTRICT-571109.

...APPELLANT

(BY SRI. PRATHEEP K C.,ADVOCATE)

AND:

1. RAVI K
   S/O KEMPEGOWDA,
   AGED ABOUT 35 YEARS,
   R/AT NO. 15, KENGARA KOPPALU,
   SRIRANGAPATNA TALUK,
   MANDYA DISTRICT-01

2. CHELUVARAJU
   S/O RANGASWAMY K
   AGED ABOUT 41 YEARS,
   R/AT NO. 74, KUNTHANA HALLI VILLAGE,
   T NARASIPURA TALUK,
   MANDYA DISTRICT-01

Digitally Signed By:
K B GEETHA

3. THE MANAGER
IFFCO TOKIO GENERAL INSURANCE CO LTD
NO. 1586, OPPOSITE BEO OFFICE,
1ST FLOOR, K R ROAD, VIDYANAGAR,
MANDYA-571400
BRANCH OFFICE,
THE BRANCH MANAGER
NO. 846, NEW KANTHARAJA URS ROAD,
KUVEMPUNAGAR, MYSORE-570023.

…RESPONDENTS

(BY SMT.E.I.SANMATHI, ADVOCATE FOR R3;
SRI. MURALIDHAR NEGAVAR, ADVOCATE FOR R3; R2 SERVED;
V/O DTD: 10.09.2026 NOTICE TO R1 IS H/S)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 18.02.2022 PASSED IN MVC NO. 1200/2019 ON THE FILE OF THE VII ADDITIONAL DISTRICT JUDGE AND MEMBER, MACT, MYSURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE GEETHA K.B.

ORAL JUDGMENT

1. Heard on IA No.1/2024.

2. IA No.1/2024 is filed under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 711 days in filing the appeal.

3. In the affidavit annexed to I.A. No.1/2024, the appellant has stated that he is working as a building contractor

Digitally Signed By:
K B GEETHA

and used to take up work across Karnataka. He had been to Bidar for one and a half years in connection with his work. After completion of the work, he came to Mysuru and then came to know that the award had been passed. Hence, he requested his advocate to obtain a certified copy. Thereafter, he suffered from ill-health and, in January 2024, the doctor advised him to take bed rest. Hence, there is a delay in filing the appeal.

4. The learned counsel for respondent No.3 has filed objections to I.A. No.1 of 2024, contending that the reasons assigned by the appellant are not believable and are not supported by any proof. Thus, there is no *bona fide* explanation on the part of the appellant. Hence, the learned counsel prayed for dismissal of I.A. No.1 of 2024.

5. Having heard arguments of both sides on IA No.1 of 2024, the point that arises for consideration is:

> *"Whether the appellant establishes that he was prevented from sufficient cause in not preferring the appeal within the prescribed period of limitation?"*

6. Finding is in '***Negative***' for the following:

Digitally Signed By:
K B GEETHA

REASONS

7. This is an appeal filed by the appellant/claimant seeking enhancement of compensation and also challenging the judgment and award passed in MVC No.1200/2019 dated 18.02.2022, on the file of the VII Additional District Judge, Mysuru, whereby the liability of the Insurance Company was exonerated.

8. The judgment and award was passed on 18.02.2022. Immediately thereafter, the claimant applied for a certified copy on 23.02.2022 and obtained the same on 24.03.2022. The present appeal was filed on 29.05.2024. Hence, there is a delay of 711 days in preferring this appeal.

9. On this aspect, this Court places reliance on the judgment of Hon'ble Apex Court in ***Pathapati Subba Reddy (Died) by LRs. And Others vs. Special Deputy Collector (LA)***[1] and ***Thirunagalingam vs. Lingeshwaran and Another***[2] in Civil Appeal No……of 2025 (arising out of SLP (C)

[1] (2024) 12 SCC 336

[2] 2025 INSC 672

Digitally Signed By:
K B GEETHA

No.17575 of 2023) was delivered. In ***Thirunagalingam's*** case, the Hon'ble Apex Court held as follows:

> *"28. Since the Respondents assigned the very same reasons in I.A. No. 1 of 2022 in Unnumbered A.S. No... of 2022 as raised in I.A. Nos. 462 of 2018 and 119 of 2019 that had already been dismissed by this Court vide S.L.P.(C) Nos.2054 & 2055 of 2022, the application for condonation of delay of 1116 days cannot be sustained. This Court in S.L.P. (C) Nos. 2054 & 2055 of 2022, after going through the evidence placed on record, rightly held that the delay has not been properly explained. The relevant portion of the order is reproduced hereunder:*
>
> > *"5. We are in complete agreement with the view taken by the High Court. Once it was found even by the learned trial Court that delay has not been properly explained, and even there are no merits in the application for condonation of delay, thereafter, the matter should rest there and the condonation of delay application was required to be dismissed. The approach adopted by the learned trial Court that, even after finding that, in absence of any material evidence it*

cannot be said that the delay has been explained and that there are no merits in the application, still to condone the delay would be giving a premium to a person who fails to explain the delay and who is guilty of delay and laches. At this stage, the decision of this Court in the case of Popat Bahiru Goverdhane v. Land Acquisition Officer, reported in (2013) 10 SCC 765 is required to be referred to. In the said decision, it is observed and held that the law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same.

5.1 In the case of Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai, (2012) 5 SCC 157, in paragraph 14, it is observed and held as under:

Digitally Signed By:
K B GEETHA

"The law of limitation is founded on public policy. The Limitation Act, 1963 has not been enacted with the object of destroying the rights of the parties but to ensure that they approach the court for vindication of their rights without unreasonable delay. The idea underlying the concept of limitation is that every remedy should remain alive only till the expiry of the period fixed by the legislature. At the same time, the courts are empowered to condone the delay provided that sufficient cause is shown by the applicant for not availing the remedy within the prescribed period of limitation."

6. In view of the above and for the reasons stated above, we are in complete agreement with the view taken by the High Court. The Special Leave Petitions stand dismissed.

Pending application, if any, also stands disposed of.

29. *xxxxx*

30. *xxxxx*

31. *xxxxx*

32. Further, this Court has repeatedly emphasised in several cases that delay should not be condoned merely as an act of generosity. The pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party. In the present case, the respondents/defendants have failed to demonstrate reasonable grounds of delay in pursuing the matter, and this crucial requirement for condoning the delay remains unmet."

10. In the aforesaid judgment, the Hon'ble Apex Court has discussed its various earlier judgments. In that case, there was delay of 1116 days. However, the Hon'ble Apex Court held that such delay without giving appropriate reasons cannot be condoned.

11. In the case of ***Pathapati Subba Reddy's*** case cited supra***,*** by relying upon earlier judgments of Hon'ble Apex Court, finally it is concluded as under:

"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

Digitally Signed By:
K B GEETHA

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, tantamounts to disregarding the statutory provision.

29. xxxxx

30. xxxxx

31. xxxxx

32. The aforesaid decisions would not cut any ice as imposition of conditions are not warranted when sufficient cause has not been shown for condoning the delay. Secondly, delay is not liable to be condoned merely because some persons have been granted relief on the

facts of their own case. Condonation of delay in such circumstances is in violation of the legislative intent or the express provision of the statute. Condoning of the delay merely for the reason that the claimants have been deprived of the interest for the delay without holding that they had made out a case for condoning the delay is not a correct approach, particularly when both the above decisions have been rendered in ignorance of the earlier pronouncement in Basawaraj."

12. In the aforesaid case, the case was dismissed on the ground of barred by limitation in the case of Land Acquisition case, which is a benevolent legislation; present case is also under MV Act, which is also a benevolent legislation.

13. With this background, the facts of the present case are to be analyzed in detail.

14. In the instant case, the two reasons assigned by the appellant for the delay are that he was unaware of the passing of the judgment and award as he was working in Bidar on construction side and that he was not keeping well from January-2024 for a period of two months.

Digitally Signed By:
K B GEETHA

15. To substantiate these two contentions, the appellant has not produced any iota of evidence. On the other hand, the certified copy of the judgment and award produced by him establishes that he had applied for a certified copy immediately after passing the judgment and award and obtained the same. Hence, his contention that he was unaware of the passing of the judgment and award cannot be accepted. No material is produced to establish that the appellant was advised by the doctor to take bed rest for two months. He has not stated the nature of his ill-health in the affidavit but has merely stated that he was not keeping well.

16. Under these circumstances, relying on the principles laid down in the aforesaid judgments of the Hon’ble Apex Court, this Court holds that the appellant has not produced any material to establish that he was prevented from 'sufficient cause' from filing the appeal within the prescribed period of limitation. The reasons assigned in the affidavit annexed to I.A. No.1/2024 for condoning the delay of 711 days are vague and unacceptable.

17. Accordingly, this Court passes the following:

Digitally Signed By:
K B GEETHA

CNR: KAHC010299242024

ORDER

(i) I.A.No.1/2024 filed under Section 5 of the Limitation Act is ***dismissed***.

(ii) Consequently, the appeal is also ***dismissed*** as barred by limitation.

Digitally Signed By:
K B GEETHA

(GEETHA K.B.)
JUDGE

SPV
List No.: 1 Sl No.: 12