HC-KAR

NC: 2026:KHC:61793
MFA No. 7731 of 2024

CNR: KAHC010640762024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF NOVEMBER, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO. 7731 / 2024 (MV-I)

BETWEEN:

1. MAHADEVASWAMY
   S/O. LATE DESHAIAH,
   AGED ABOUT 49 YEARS

2. PUTTASWAMY
   S/O. LATE DESHAIAH,
   AGED ABOUT 47 YEARS

   ALL ARE RESIDING AT KESTHURU VILLAGE,
   YELANDUR TALUK,
   CHAMARAJANAGARA DISTRICT.

...APPELLANTS

(BY SMT.VIJAYAKUMARI.S, ADVOCATE)

AND:

1. SHIVARAJU H. M.
   S/O. MADAIAH,
   AGED ABOUT 25 YEARS,
   R/O. HEGGAVADIPURA VILLAGE,
   SANTHEMARAHALLI HOBLI,
   CHAMARAJANAGARA TALUK.

2. KEMPAMMA
   W/O. BASAVALINGAIAH,
   R/O. NO. 28, MADHUVANAHALLY VILLAGE,

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CHAMARAJANAGARA TALUK.

3. THE MANAGER
UNITED INDIA INSURANCE CO.LTD.,
#1134, DEVARU MANSION,
NEAR BALLAL CIRCLE,
MYSURU.

…RESPONDENTS

(NIL)

THIS MFA IS FILED U/S 173(1) MV ACT AGAINST THE JUDGMENT AND AWARD DATED 02.01.2017 PASSED IN MVC.NO. 417/2015 ON THE FILE OF THE PRL. DISTRICT AND SESSIONS JUDGE, MACT, CHAMARAJANAGARA, 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 2060 days in filing the appeal.

3. In the affidavit annexed to I.A. No.1/2024, appellant No.1 would submit that he had filed a claim petition before the Tribunal seeking compensation in

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respect of the death of his son in a road traffic accident that occurred on 19.09.2015. The Tribunal awarded compensation of ₹1,38,000/-. The said judgment and award is on the lower side. Due to his ill-health and the fact that he was residing adjacent to the forest area in Chamarajanagar District, he could not meet his counsel in time to prefer the appeal, and thus, there was a delay in preferring the appeal.

4. Having heard arguments, the point that arises for consideration is:

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

5. Finding of this Court is in '***Negative***' for the following:

REASONS

6. The present appeal is filed challenging the award passed in MVC No.417/2015 dated 02.01.2017 on the file of the Principal District and Sessions Judge and

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MACT, Chamarajanagar. There is an inordinate delay of more than seven years in preferring this appeal.

7. The date of the judgment of the Tribunal is 02.01.2017, and the present appeal is filed on 07.11.2024. Thus, there is a delay of more than seven years in filing the appeal. The office has deducted 716 days on account of COVID-19 while computing the period of limitation. However, in the present case, the period of limitation commenced long prior to the commencement of the COVID-19 pandemic. Hence, the delay in filing the appeal is 2,776 days and not 2,060 days, as stated in I.A. No.1/2024.

8. The only reason assigned by appellant No.1 is that he was suffering from ill-health. He has not mentioned the nature of his ill-health or the period during which he could not contact his counsel. The other reason assigned is that he is residing adjacent to the forest area of Chamarajanagar District and, thus, could not contact his counsel. These contentions cannot be accepted for the

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simple reason that the delay is more than seven years in preferring the appeal. No sufficient cause is shown for such inordinate delay.

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)*** reported in ***(2024) 12 SCC 336*** and ***Thirunagalingam vs. Lingeshwaran and Another*** in Civil Appeal No…….. of 2025 (arising out of SLP (C) 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*

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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:

"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;*

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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, 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 analysed in detail.

14. In the instant case, the first reason assigned by the appellant No.1 is that he was suffering from ill-health. He has not mentioned the nature of his ill-health or the period during which he could not contact his counsel. Another reason assigned is that he is residing adjacent to the forest area of Chamarajanagar District and, thus, could not contact his counsel. No reason is assigned for such inordinate delay in preferring the appeal. It is the responsibility of the appellant to know the result of the case after filing the claim petition before the Tribunal. The delay is more than seven years in this case. It is only due to his negligence that he has failed to file the appeal within the prescribed period of limitation. The appellant has failed to establish due diligence. Under these circumstances, the

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merits of the case cannot be looked into, as observed by the Hon'ble Apex Court in the judgments cited supra.

15. 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 by sufficient cause from filing the appeal within the prescribed period of limitation. The reasons assigned for condoning the delay of 2,776 days in the affidavit annexed to I.A. No.1/2024 are not acceptable.

16. Accordingly, this Court passes the following:

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.

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(GEETHA K.B.)
JUDGE

SPV
List No.: 1 Sl No.: 20