.IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CMP(M) No. 795 of 2025

Reserved on: 17.04.2026
Date of decision: 28.04.2026

Ram Pyari & others .....Applicants.

Versus

Balbir Singh & others .....Non-applicants.

Coram
The Hon'ble Mr. Justice Sushil Kukreja, Judge.
[1]*Whether approved for reporting?* Yes.

For the appellants: Mr. Varun Rana, Advocate.

For non-applicant No. 1: Mr. Pankaj Chodhari, Advocate.

For non-applicant No. 2: Mr. Praneet Gupta, Advocate.

Sushil Kukreja, Judge.

The instant application has been filed by the applicants, who were petitioners before the learned Trial Court (hereinafter referred to as "the applicants"), under Section 5 of the Limitation Act, 1963 (for short "the Act") seeking condonation of delay in filing the accompanying appeal under Section 173 of the Motor Vehicles Act, 1988, against award, dated 07.08.2023, in Case Registration No. 40 of 2020, passed by learned Motor Accident Claims Tribunal, Sundernagar, District Mandi, H.P (hereinafter

[1] *Whether reporters of Local Papers may be allowed to see the judgment?*

referred to as “the learned Tribunal below”), with a prayer to allow the instant application by condoning the delay of 01 year 04 months and 16 days in filing the appeal.

2. As per the applicants, on 07.11.2023 the accompanying appeal was filed against the impugned award, dated 07.08.2023, thus the appeal filed by them was within the period of limitation. It was further averred by the applicants that they handed over the entire record alongwith certified copy of the impugned award and signed power of attorney to their counsel on 06.11.2023 and the counsel instructed them not to call him every now and then and he will himself contact them. They were told that decision in such cases usually comes after 4-5 years. It was also averred that applicant No. 1 is semi-literate and rustic village woman, therefore, the applicants did not contact their counsel, as they thought not to disturb him. On 10.04.2025, Shri Sohan Lal, who is elder brother of applicant No. 2 met the counsel of the applicants. Shri Sohan Lal was told by their counsel that he tried to contact applicant No. 2 telephonically, but his phone number was not reachable. The mobile phone of applicant No. 2 was damaged for the last one month. On 10.04.2025 applicant No. 2 contacted

his counsel from the mobile phone of his elder brother and the counsel apprised him that there were certain objections in the appeal, which were required to be removed, for which he needed to come to Shimla. The counsel instructed him to come to Shimla on 23.04.2025 alongwith another certified copy of the award. On 11.04.2025 applicant No. 2 went to Sundernagar Court, where he met his counsel and requested him to supply certified copy of the impugned award and on 12.04.2025 same was given to him. On 23.04.2025 applicant No. 2 came to Shimla and handed over the certified copy of the impugned award to his counsel. His counsel informed him that his file was handed over to the office clerk for filing the same on 07.11.2023, but due to work load, the counsel could not keep track of the same and only on 08.04.2025, when he was going through some old documents, he found the file lying with some miscellaneous papers. The applicants averred that the Office Clerk had filed the photo copy of the impugned award with the appeal and he had also misplaced the office file of the instant appeal. Due to non-filing of the certified copy of the impugned award, the Registry could not ascertain whether the appeal was filed within the prescribed period of limitation

or not. As per the applicants, due to the above mentioned reasons, the instant appeal became time barred by 01 year, 04 months and 16 days. Hence, a prayer has been made for allowing the instant application by condoning the delay of 01 year, 04 months and 14 days in filing the appeal.

3. No reply has been filed on behalf of non-applicant No. 1-Shri Balbir Singh. Non-applicant No. 2, i.e., The New India Assurance Company Limited, filed reply to the application, wherein it was averred that removal of objection cannot extend the period of limitation in any manner, as limitation is always calculated from the certified copy annexed and not from the photo copy alleged to have been annexed at the time of filing of the appeal. As per the replying respondent, the applicants were highly negligent in not pursuing their case in the Court in a prudent manner, as they took the proceedings in a casual manner and cannot be allowed to raise vague allegations. It is further averred that the entire story has been concocted to hoodwink this Court to get the discretionary relief. Lastly, dismissal of the application is prayed.

4. The applicants filed rejoinder to the aforesaid reply, wherein they reiterated the averments made in their

application and refuted the stand taken by non-applicant No. 2.

5. I have heard the learned counsel for the respective parties and carefully examined the entire records.

6. Learned counsel for the applicants contended that since due to bona fide mistake the delay in filing the appeal occurred and such delay was beyond the control of the applicants, the instant application be allowed and the delay in filing the appeal be condoned as the applicants would not have benefited in any manner by causing delay in the matter.

7. Conversely, learned counsel for non-applicants/respondents contended that the applicants have not approached this Court with clean hands and they were negligent in pursuing their case and they prayed for dismissal of the instant application.

8. It is a settled position of law that every case is to be decided considering the facts and circumstances of that case only and there cannot be a straitjacket formula or rule either for condonation of delay or to reject the condonation. The only requirement for condonation of delay is that whether there is 'sufficient cause' for the litigant not to initiate

the litigation in prescribed time of limitation. If sufficient cause is shown, delay can be condoned and that term 'sufficient cause' is elastic enough to enable the Courts to apply the law in a manner which subserves ends of justice and that there cannot be hard and fast rule laid down for condonation of delay. In the case of Collector, ***Land Acquisition, Anantnag and Another vs. Mst. Katiji & ors.,*** reported in ***(1987) 2 SCC 107*** the term 'sufficient cause' has been explained by the Apex Court to be adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice. The Apex Court in the particular case had directed a liberal approach to be adopted on principle and had observed that when substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred. He further submits that there can be no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. The relevant portion of the judgment (supra) is reproduced as under:

> ***"3. The legislature has conferred the power to condone delay by enacting section 5 of the Indian Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on 'merits'. The expression "sufficient cause" employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice-that***

being the life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appeal to have percolated down to all the other courts in the hierarchy. And such a liberal approach is adopted on principle as it is realized that:

1. ***Ordinarily a litigant does not stand to benefit by lodging an appeal late.***

2. ***Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.***

3. ***"Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.***

4. ***When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.***

5. ***There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.***

6. ***It must be grasped that judiciary is respected not on account of its powers to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so."***

... ...

9. In the judgment rendered by the Hon'ble Apex Court in ***Ram Nath Sao @ Ram Nath Sahu & Ors. vs. Gobardhan Sao & Ors., (2002) 3 SCC 195,*** wherein, at paragraph-12, it has been held that "sufficient cause" within

the meaning of Section 5 of the Act or Order 22 Rule 9 of the Code or any other similar provision should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bona fides is imputable to a party. The relevant portion of the judgment (supra) is reproduced as under:

> ***"12. Thus it becomes plain that the expression "sufficient cause" within the meaning of Section 5 of the Act or Order 22 Rule 9 of the Code or any other similar provision should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bona fides is imputable to a party. In a particular case whether explanation furnished would constitute "sufficient cause" or not will be dependent upon facts of each case. There cannot be a straitjacket formula for accepting or rejecting explanation furnished for the delay caused in taking steps. But one thing is clear that the courts should not proceed with the tendency of finding fault with the cause shown and reject the petition by a slipshod order in over- jubilation of disposal drive. Acceptance of explanation furnished should be the rule and refusal, an exception, more so when no negligence or inaction or want of bona fides can be imputed to the defaulting party. On the other hand, while considering the matter the courts should not lose sight of the fact that by not taking steps within the time prescribed a valuable right has accrued to the other party which should not be lightly defeated by condoning delay in a routine-like manner. However, by taking a pedantic and hypertechnical view of the matter the explanation furnished should not be rejected when stakes are high and/or arguable points of facts and law are involved in the case, causing enormous loss and irreparable injury to the party against whom the lis terminates, either by default or inaction and defeating valuable right of such a party to have the decision on merit. While considering the matter, courts have to strike a balance between resultant effect of the order it is going to pass upon the parties either way."***

10. As per the Judgment of the Apex Court in the case of ***Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy & ors.,*** reported in ***(2013)***

12 SCC 649, that the term 'sufficient cause' should be understand in proper spirit, since the term is basically elastic and has to be applied in the proper perspective, that substantial justice being paramount and pivotal, the technical considerations should not be given undue and uncalled for emphasis. The Apex Court had also held that the adherence to strict proof should not affect public justice or cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate, there is no real failure of justice. The Apex Court had also noticed the distinction between inordinate delay and a delay of short duration of few days and had observed that the second calls for a liberal delineation.

11. Thus, the law on the issue can be summarized to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation and “sufficient cause" should receive a liberal construction so as to advance substantial justice The Apex Court has time and again reiterated that there should be a liberal, pragmatic and justice-oriented approach when

dealing with an application for condonation of delay and the issue of limitation is to be taken liberally and not to be taken in hyper technical manner.

12. In the instant case, the case of the applicants is that at the time of preparation of the appeal they have handed over the entire record of the case alongwith certified copy of the impugned award to their counsel in his office and after signing the appeal and power of attorney they returned to their native place. The counsel had instructed them that they need not to call him every now and then and he would contact them himself in case any need arises as such, they never contacted their counsel. However, on 10.04.2025, the elder brother of applicant No. 2, namely Shri Sohan Lal, who happened to be regular client of their counsel, met applicant No. 2 and told him that the counsel was trying to contact him on his phone number, but he could not contact him. Therefore, on 10.04.2025, applicant No. 2 contacted the counsel from the mobile number of his elder brother when the counsel told him that there were objections in the appeal and they were required to be removed. The counsel also instructed applicant No. 2 to bring another certified copy of the impugned award and to come to Shimla on 23.04.2025.

Thereafter, applicant No. 2 went to Sundernagar Court to meet his counsel and to request him to supply certified copy of the impugned award. His counsel told that he had to check the file in his office and on 12.04.2025 applicant No. 2 alongwith his brother went to the house of the counsel where, after searching, certified copy of the impugned award was found, which the counsel obtained for his records. On 23.04.2025 applicant No. 2 came to Shimla and gave the certified copy to his counsel, but his counsel informed him that his file was handed over by him to the office clerk for filing the same on 07.11.2023 but due to work load and bonafide mistake, the counsel could not keep track of his appeal and on 08.04.2025 when he (counsel) was going through some old documents kept on a shelf of the office, the appeal was found with some miscellaneous papers. On further inquiry it was found that the office clerk of the counsel, after filing the appeal, recollected the same from the Registry and inadvertently placed the same on a shelf, which was meant for keeping decided files and miscellaneous papers. Instead of filing the certified copy of the impugned award with the appeal, photocopy of the award was filed and the counsel informed applicant No. 2 that the office clerk had

also misplaced the office file of his appeal. Applicant No. 2 was also apprized that due to non-filing of the certified copy of the impugned award, the Registry could not ascertain whether the appeal was filed within the prescribed period of limitation or not and due to above narrated facts the appeal became time barred by one year four month and sixteen days.

13. In ***Inder Singh vs. The State of Madhya Pradesh, 2025 SCC Online SC 600,*** the Hon'ble Supreme Court held that if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation. The relevant para of the judgment (supra) is as under:

> ***"14. There can be no quarrel on the settled principle of law that delay cannot be condoned without sufficient cause, but a major aspect which has to be kept in mind is that, if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation."***

14. Therefore, applying the law laid down by the Apex Court to the facts of the present case, this court is satisfied that the applicants have been able to render a satisfactory explanation for condonation of delay, as occurred in filing the present appeal. Although there might be some weight in the submissions made by the learned

counsel appearing for the respondents that delay may not be condoned as a matter of course in the present case, however, this Court finds that a liberal approach and acceptance of the explanation given by the applicants deserves to be considered. This Court is also of the view that in case delay is not condoned, the same would result in miscarriage of justice, as the applicants have filed the appeal for enhancement of compensation on account of death of their son, who died in a motor vehicle accident, involving car bearing registration No. HP-24-B-3365, which allegedly took place due to the rash and negligent driving of respondent No. 1 (driver of the car).

15. Accordingly, for the reasons aforesaid, the present application is allowed and delay in filing the appeal is condoned.

(Sushil Kukreja)
Judge

28th April, 2026
(virender)