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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

CM-10850-CII-2024 in/and  
FAO-3027-2024 (O&M)  
Date of decision: 30.01.2026

Gopal Lal Chodhary @ Gopal Lal Choudhary

...Appellant

Versus

Oriental Insurance Company Ltd. and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. Ishnoor Singh, Advocate for  
Mr. Ashish Gupta, Advocate for the appellant.

Mr. Ashwani Talwar, Sr. Advocate with  
Mr. Nikhil Sehrawat, Advocate and  
Mr. Deepak Goyat, Advocate and  
Mr. Gandharv Malhotra, Advocate  
for respondent No.1-Insurance Company.

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**VIKAS BAHL, J. (ORAL)**

1. The present appeal has been filed by the owner of the offending vehicle. Challenge in the appeal is to the award dated 20.08.2014. Along with the appeal, CM-10850-CII-2024 has been filed under Section 5 of the Limitation Act for condonation of delay of 2793 days in filing the appeal.
2. Learned counsel for the applicant-appellant, while referring to the averments made in the application, has submitted that the appellant was under the impression that no liability to pay the compensation to the claimants had been fastened upon the present appellant and thus, he was under the impression that he did not need to file an appeal. It is submitted that it is only when he received summons from the Executing Court in December, 2023 that he realized that liability had been fastened upon him and thereafter,



the appellant tried to settle the matter with the Insurance Company but the Insurance Company kept on postponing the matter on one pretext or the other and subsequent to the same, the appeal was filed and in the process, the delay of 2793 days had occurred. It is submitted that the delay is due to the said bona fide reasons and the Court should adopt liberal approach in condoning the delay and thus, has prayed that application for condonation of delay be allowed and the main appeal be heard on merits.

3. Learned Senior Counsel for respondent No.1-Insurance Company, which is the main contesting party in the present case, has vehemently opposed the present application and has filed detailed reply. While referring to the averments made in the reply dated 08.01.2026, it has been highlighted by learned Senior Counsel for respondent No.1-Insurance Company that award in the present case was passed in the year 2014 in the presence of the counsel for the appellant/owner. It is submitted that the present appellant had duly participated in the proceedings and even had filed written statement and a perusal of the award clearly shows that it was held that the appellant had violated the terms and conditions of the insurance policy and thus, recovery rights were given to the Insurance Company. It is submitted that the cause as mentioned in the application cannot even remotely be stated to be a sufficient cause to condone the delay of 7 years, 7 months and 28 days. It is argued that by not filing the appeal within the period of limitation, vested rights have been created in favour of the Insurance Company and the said vested rights cannot be taken away by condoning such a huge delay. It is further argued that the sword of Damocles cannot be kept hanging over respondent No.1-Insurance Company. In support



of his arguments, learned Senior Counsel for respondent No.1-Insurance Company has relied upon the judgment of the Hon'ble Supreme Court dated 08.01.2025 passed in case titled as **H. Guruswamy & ors. Vs. A. Krishnaiah since deceased by LRs,** reported as **2025 SCC Online SC 54**, judgment of the Hon'ble Supreme Court dated 17.02.2011 passed in the case titled as **Union of India Vs. Nripen Sarma** reported as **2013(4) SCC 57**, and judgment of the Hon'ble Supreme Court dated 19.09.1997 titled as **P.K. Ramachandran Vs. State of Kerala** reported as **1997(7) SCC 556**.

4. This Court has heard learned counsel for the applicant-appellant as well as learned Senior counsel for respondent No.1-Insurance Company and is of the opinion that CM-10850-CII-2024 which has been filed under Section 5 of the Limitation Act for condonation of delay of 2793 days in filing the main appeal, deserves to be dismissed for the reasons stated hereinafter.

5. A perusal of the award dated 20.08.2014 would show that the claimants had filed claim petition under Section 166 of the Motor Vehicles Act, 1988 and the present appellant was impleaded as respondent No.2 and was stated to be the owner of the offending truck. The driver was impleaded as respondent No.1 and Insurance Company was impleaded as respondent No.3. A perusal of the award further shows that Dinesh Gupta, Advocate had appeared for respondent Nos.1 and 2 therein i.e., the driver and the present appellant. A perusal of para 3 of the award would show that joint written statement was filed on behalf of the driver and the owner/present appellant. From the said facts, it is apparent that the appellant was well aware of the said proceedings and had duly engaged the counsel to defend the case. The



Tribunal vide award dated 20.08.2014 had specifically observed at two places that Insurance Company was not liable to pay the amount of compensation but was required to satisfy the award and would further have the right to recover the amount deposited along with interest from the owner of the vehicle and for the said purpose, Insurance Company-respondent No.1 was not required to file a separate petition for securing the right of recovery of the amount from the owner of the said offending vehicle. Relevant portion of the relief clause is reproduced hereinbelow:-

**“(RELIEF):**

*22. Keeping in view of my findings on aforesaid issues the claim petition is partly allowed with costs. An amount of ₹7,11,240/- is hereby awarded in favour of claimant No.1. However, claim of the claimants No.2 to 4 is dismissed, being not dependent upon the deceased. The claimant No.1 shall also be entitled to interest @ 7.5% per annum on the said awarded amount from the date of filing of the petition till actual realization.*

*The insurance company-respondent No.3 though not liable to pay the amount of compensation, shall satisfy the award and shall have the right to recover the amount deposited by it alongwith interest from the owner of the vehicle. It is also clarified here that the insurance company-respondent No.3 will not be required to file a separate petition for securing a right of recovery of the amount from the respondent No.2- owner of offending vehicle as the recovery rights provided by the Award shall be enforced in execution after satisfying the claim of the claimant.”*

6. It is impossible to believe that the present appellant, who had engaged a lawyer to defend the case and whose primary defence would have been to avoid the liability, would not have known the consequences of the



present award. It was the duty of the appellant to follow up the case with due diligence and to seek advice from his counsel about the consequences of the award and in case the same was not done for several years then the delay of 2793 days had occurred due to his own negligence in filing the appeal. In the application, it has been stated in para 2 that after learning about the case in December, 2023, the appellant had tried to settle the matter with the Insurance Company, however, no date, much less, details or concerned officers with whom the talk of said settlement had been undertaken, have been mentioned. Even the zimni order reflecting that the appellant had received summons from the Executing Court in December, 2023 has not been filed along with the application for condonation of delay. At any rate, even if the averments made in the application are taken to be true on their face value, then also, the same does not constitute a sufficient cause to condone the delay.

7. The Hon'ble Supreme Court in the case of *H. Guruswamy & ors.*(Supra), had observed that concepts of "liberal approach", "justice oriented approach", "substantial justice" should not be employed to frustrate the substantial law of limitation. It was further observed that the length of delay was a relevant factor which the Court had to take into consideration while condoning the delay. The party who has lost his rights on account of his own inaction cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the Court should not start with the merits of the case as it is the duty of the Court to first ascertain that there is sufficient cause for seeking condonation and it is only in case sufficient cause is



assigned, that aid of merits is taken for the purpose of condoning the delay. It was observed that the question of limitation is not merely a technical consideration and the rules of limitation are based on the principles of sound public policy and principles of equity and no Court should keep the 'Sword of Damocles' hanging over the head of a litigant for an indefinite period of time. In the said case, the Hon'ble Supreme Court had set aside the order passed by the Hon'ble High Court condoning the delay of 2200 days. Similarly in the case of ***Union of India*** (Supra), the Hon'ble Supreme Court had found that the High Court had rightly dismissed the application for condonation of delay of 239 days as no substantial cause was shown to condone the delay.

8. In the case of ***P.K. Ramachandran*** (Supra), the Hon'ble Supreme Court had found that there was no explanation, much less, a reasonable or satisfactory one for condoning the delay of 565 days and thus, accordingly, the application for condonation of delay therein was dismissed.

9. Keeping in view the abovesaid facts and circumstances and law laid down by the Hon'ble Supreme Court in the abovesaid judgments, the application under Section 5 of the Limitation Act seeking condonation of delay of 2793 days in filing the main appeal is meritless, deserves to be dismissed and is accordingly dismissed. Since application for condonation of delay has been dismissed, thus, main appeal also stands dismissed.

10. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

**30.01.2026**

*Pawan*

**(VIKAS BAHL)**  
**JUDGE**

**Whether speaking/reasoned:- Yes/No**  
**Whether reportable:- Yes/No**