

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****221****FAO-8706-2015(O&M)****Date of decision: 22.04.2026****Naresh Kumar****...Appellant(s)****Vs.****Sunil Devi & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. J.P. Jangu, Advocate
Mr. Sagar Dangi, Advocate
for the appellant.

Mr. Vinod Chaudhri, Advocate
for respondent No.7.

*********NIDHI GUPTA, J.****CM-27610-CII-2015**

This is an application under Section 151 CPC for condonation of delay of 100 days in re-filing the appeal.

After going through the contents of the application, which is supported by affidavit of learned counsel for the appellant, the same is allowed subject to all just exceptions and delay of 100 days in re-filing the present appeal is condoned.

CM-27611-CII-2015

This is an application filed by the applicant/appellant/owner of the offending vehicle under Section 5 of Limitation Act for condonation of



delay of 1605 days in filing the appeal. Reason for seeking condonation of such inordinate delay is given in Para 2 of the present application that: -

“2. That the impugned award dated 25.01.2011 passed by the Id. Tribunal Rewari. It is pertinent to mention here that the above mentioned award was decided ex-parte, because appellant was not appeared before the Id. Tribunal as he was not properly served in the correct address and appellant has not knowledge about the decision of the impugned award.

3. That appellant came to know about the decision of the case award only on 26.04.2014 when Sh. Virender Sharma, Advocate, Rewri came to know about the proceedings of attachment in the ex-parte proceedings before the Court of Sh. Ajay Tewatia, ADJ, as MACT, Rewari.”

The above cited reason does not constitute sufficient cause to condone extraordinary delay of 1605 days in filing the present appeal. It has been stated by the applicant/appellant himself that he had come to know of the impugned Award on 26.04.2014; yet present appeal has been filed by the appellant only on 14.09.2015 i.e. more than one-and-a-half years later. It is cardinal principle of law that delay of each day has to be explained. Reference judgment of Hon’ble Supreme Court in **“Shivamma (Dead) by LRs Vs. Karnataka Housing Board & Others” Civil Appeal No.11794 of 2025 decided on 12.09.2025.**

In recent years, the Hon’ble Supreme Court has come down heavily on the malaise of lackadaisical litigants. It is to be appreciated that



over a period of time the rights of the parties get crystallised. It is, therefore, the bounden duty of every litigant to pursue his case diligently; as it is also the bounden duty of this Court to ensure that justice inures to both parties concerned. The Apex Court has also taken due note of the fact that over a period of time, rights of parties get crystallised. Reference in this regard is made to a recent judgment of the Hon'ble Supreme Court in **Union of India v. Jahangir Byramji Jeejeebhoy (SC) : Law Finder Doc Id # 2537649**, decided on 03.04.2024, as under:-

“25. It hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning the gross delay of more than 12 years. If the litigant chooses to approach the court long after the lapse of the time prescribed under the relevant provisions of the law, then he cannot turn around and say that no prejudice would be caused to either side by the delay being condoned. This litigation between the parties started sometime in 1981. We are in 2024. Almost 43 years have elapsed. However, till date the respondent has not been able to reap the fruits of his decree. It would be a mockery of justice if we condone the delay of 12 years and 158 days and once again ask the respondent to undergo the rigmarole of the legal proceedings.

26. The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which



law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he 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 must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

27. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the 'Sword of Damocles' hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants

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35. In a plethora of decisions of this Court, it has been said that delay should not be excused as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party. The appellants have failed to prove that they were reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in this case."

(Emphasis added)



Again, in **Pathapati Subba Reddy (Died) by LRs and others vs. The Special Deputy Collector (LA), Law Finder Doc Id # 2542600**, the Hon'ble Supreme Court has recently held as under: -

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

(i) 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;

(ii) 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;

(iii) 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;

(iv) 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;

(v) 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;

(vi) 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;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) 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.”

(Emphasis added)

I am in complete agreement with the above view expressed by the Hon'ble Apex Court. Furthermore, as will also be demonstrated hereinbelow, even no valid reasons have been given by the applicant/appellant for condoning inordinate delay of 1605 days. Present application accordingly stands **dismissed**.

CM-27615-CII-2015

Present application under Order 41 Rule 27 read with Section 151 CPC is filed for leading additional evidence, and to file valid Route Permit dated 22.12.2006 of the vehicle.

Ld. Counsel for the applicant/appellant submits that he was unable to produce the Route Permit before the learned Tribunal as he was not granted any opportunity to produce the same as appellant was proceeded against ex parte. It is accordingly prayed that the present application be allowed and the Route Permit be taken on record as additional evidence.



Heard.

I find no merit in the submissions of the applicant/appellant. The validity, authenticity and correctness of the Route Permit (Annexure A5) now sought to be produced by the appellant cannot be ascertained by this Court. No sufficient cause has been shown by the appellant for not putting in appearance before the learned Tribunal at the relevant time. No valid reasons have been given by the appellant for not producing the Route permit before the Tribunal. The present application accordingly stands **dismissed**.

MAIN CASE

Present appeal has been filed by the owner of the offending vehicle laying challenge to the ex parte Award dated 25.01.2011 passed by Motor Accident Claims Tribunal, Rewari (hereinafter 'the learned Tribunal') whereby MACT Case No.36 dated 02.01.2009 filed by the claimants/respondents No.1 to 5 herein, under Section 166 of Motor Vehicles Act (hereinafter "the Act"), has been allowed; and compensation of Rs.6,14,800/- along with interest @ 6% per annum has been awarded.

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that the deceased Rajesh Kumar had died due to the injuries suffered by him in a motor vehicular accident that took place on 08.12.2008 at about 9 pm due to the rash and negligent driving of Truck bearing registration No.MH-04-CU-2472 (hereinafter "the offending vehicle") being



driven by respondent No.6, owned by the appellant, and insured by respondent No.7. Recovery rights have been granted to the respondent No.7/Insurance Company against the appellant taking into account the fact that the appellant had failed to produce valid Route Permit before the learned Tribunal.

3. Learned counsel for the appellant submits that recovery rights have been wrongly granted to the respondent No.7 against the appellant vide ex parte Award dated 25.01.2011. Thus, no opportunity of hearing was granted to the appellant. Ld. counsel refers to the averments made in Para 9 of the present Grounds of Appeal, to submit that appellant was not served in accordance with Law due to wrong address. Therefore, without hearing the appellant, recovery rights could not have been granted.

4. Moreover, the appellant is having valid Route Permit of the vehicle which was not produced before the learned Tribunal being ex parte. But now, the appellant wants to file the copy of the valid Route Permit before this Court. It is further submitted that learned Tribunal ought to have decided the issue regarding liability in favour of the appellant as the alleged offending vehicle was insured with the respondent No.7 and the driver of the vehicle i.e. respondent No.6 was having a valid Driving Licence as well as appellant has valid Route Permit also. It is further submitted that at the time of alleged accident the alleged offending vehicle was being used only for commercial purpose being a goods carrier is permitted by the State Authority, keeping



this aspect of mind there is no breach of contract viz-a-viz respondent Insurance Company i.e. respondent No.7. It is accordingly prayed that the present appeal be allowed and impugned Award be set aside.

5. Per contra, learned counsel for the respondent No.7 opposes the submissions advanced on behalf of the appellant and submits that the impugned Award suffers from no error; and the present appeal deserves to be dismissed.

6. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellant.

7. Learned counsel for the appellant is seeking setting aside of the impugned Award on the ground that an ex parte Award had been passed against the appellant as, due to wrong address the appellant was not served. In this regard, learned counsel for the appellant has made reference to the Averments made in paras 2 and 9 of the present appeal, which read as follows:

"2. That the brief facts of the present case are that an accident was occurred on 08.12.2008 and in that accident husband of the Respondent expired and thereafter, wife of the deceased filed the claim petition before the Id. MACT Rewari, and in that claim petition, Petitioner was impleaded as party as Respondent No.2 and have mentioned the wrong address, due to that Petitioner not received any summon from the Hon'ble court and later on Petitioner was proceeded exparte vide orders dated 22.01.2011 and 25.1.2011 award have been



passed. The copy of the exparte order passed by the Id. MACT is attached herewith as Annexure A/1.

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9. That no proper opportunity of hearing was granted to the Petitioner, because due to wrong address, Petitioner was not served, if Petitioner was duly served then appellant absolutely contest the petition before the Id. MACT."

8. However, in utter contradiction of the above averments, the appellant has also stated in Para 4 of present Grounds of Appeal as follows:-

"4. That in the execution petition, notices were issued to the Respondent and they were also issued on the same address, but inadvertently, appellant came to know from some one about the decision of the award and after verifying the facts and inspecting the whole record, it reveals that appellant was proceeded exparte,... .."

9. Thus, appellant has admitted that he was served in the execution petition on the very same address to which notices were sent in the claim petition. From the above contradictory averments made by the appellant in para four and nine of the present Appeal, it is clear that the appellant is trying to mislead this Court; as on the one hand, the appellant is stating that notice was not served upon the appellant "*due to wrong address*"; whereas simultaneously the appellant is also admitting that in the Execution Petition notice was issued to the appellant on the same address.

10. It has further come on record that the appellant had also moved an application dated 21.05.2014 (Annexure P3) before the learned



Tribunal for setting aside the ex parte order dated 02.03.2009 and the ex parte Award dated 25.01.2011. However, the said application of the appellant has been dismissed by the learned Tribunal, Rewari vide order dated 31.01.2015 (Annexure A4). In the said order, the learned Tribunal has given a categoric finding that the appellant was duly served by way of registered post and acknowledgment was received back and yet none had appeared on behalf of the appellant. Relevant findings in the order dated 31.01.2015 are in Para 4, which reads as follows: -

“4. A claim petition under Section 166 of Motor Vehicle Act titled as Smt. Sunil Devi and others Vs. Vinay Kumar and others was filed on 2.1.2009 on the ground that one Rajesh Kumar lost his life due to the accident caused by the offending truck bearing registration no. MH-04-CU/2472 on 8.12.2008. Notice of the claim petition was given to applicant/respondent no. 2 Naresh Kumar Sharma on the address mentioned in the claim petition. As per the order dated 2.3.2009, notice was issued to applicant/respondent no. 2 through registered post and the acknowledgement duly served was received and case called several times since morning but none had appeared on behalf of respondent no. 2 and, therefore, respondent no. 2 was proceeded against exparte. Therefore, in view of the order dated 2.3.2009, notice to applicant/respondent no. 2 Naresh Kumar Sharma was duly served by way of registered post and acknowledgement was received back and as none had appeared on behalf of respondent no. 2 Naresh Kumar Sharma to pursue the claim petition and, therefore, respondent no. 2



was proceeded against exparte. The acknowledgement dated 2.3.2009 is on the file. After going through the acknowledgement, it is clear that some person had signed on 23.1.2009 regarding receipt of registered letter containing the summons on behalf of Delhi Bombay Speed Carrier. As such it is clear that the notice was duly received by applicant/respondent no. 2. After going through the file, it is clear that offending vehicle was in the name of applicant/respondent no. 2 Naresh Kumar Sharma and Ex. R1/A was the insurance policy which was in the name of applicant/respondent no. 2 Naresh Kumar Sharma and the same address has been mentioned on the insurance policy Ex. R1/A and on the same address, notice was issued to respondent No.2. The insurance policy was issued on 14.9.2008 and was valid up to 13.9.2009. The summons by way of registered post were received on 23.1.2009 and applicant/respondent no. 2 Naresh Kumar Sharma was proceeded against exparte on 2.3.2009, Therefore, it is clear that respondent no. 2 was proceeded against exparte within few months of the date of issuance of the insurance policy Ex. R1/A. If the applicant/respondent no. 2 had changed his address, he must have intimated to the insurance company. Even otherwise, it has been not mentioned in the application for setting aside exparte order dated 2.3.2009 and the exparte award dated 25.1.2011 that when applicant/respondent no. 2 shifted his residence. In these circumstances, it cannot be said that applicant/respondent no. was not properly served. As applicant/respondent no. 2 had not appeared to pursue the claim petition titled as Smt. Sunil Devi and others Vs. Vinay



Kumar and others and therefore, he was rightly proceeded against ex parte vide order dated 2.3.2009. As such no ground is made out for setting aside ex parte order dated 2.3.2009 and the ex parte award dated 25.1.2011. Accordingly, application stands dismissed. File be consigned to the record-room after due compliance."

(Emphasis added)

11. From the above facts, it is crystal clear that the appellant was duly served. However, he chose not to appear before the Tribunal. Thus, appellant has been grossly negligent in his pursuit of the present litigation. Needless to say, this Court cannot come to the assistance of a litigant who is not willing to help himself.

12. Moreover, the appellant has taken contradictory plea at each stage. At one stage, it is stated that the appellant was not served due to wrong address. However, simultaneously the appellant has admitted that in the Execution Petition he has been served at the same address. In order dated 31.1.2015, the learned Tribunal has also recorded a categorical finding of fact that the appellant was served on the very same address which is mentioned in the insurance policy being relied on by the appellant. Clearly therefore, the appellant is only trying to obfuscate the process of law.

13. Further, nothing has been brought to the notice of this Court that order dated 31.01.2015 (Annexure A4) whereby application of the appellant for setting aside ex parte proceedings were dismissed, has been challenged by the appellant before this Court. Therefore, the said order has



attained finality. Furthermore, prayer of the appellant in the present appeal is only as follows: -

“It is, therefore, respectfully prayed that the present appeal may kindly be allowed/ accepted and the impugned Award dated 25.01.2011 passed by Id. M.A.C.T. Rewari may kindly be set aside in the interest of justice.”

14. Thus, there is no challenge to the order dated 31.1.2015. Learned counsel for the appellant is unable to dispute or controvert the aforesaid facts and findings.

15. In view of the above, present appeal stands **dismissed** on grounds of delay as well as on merits.

16. Pending application(s) if any also stand(s) disposed of.

22.04.2026

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No