



2026:AHC-LKO:20775

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

FIRST APPEAL FROM ORDER DEFECTIVE No. - 304 of 2025

Kailash Nath Yadav

.....Appellant(s)

Versus

Jai Prakash Narayan Mishra And Others

.....Respondent(s)

Counsel for Appellant(s) : Vishnu Pratap Singh, Ashish Kumar
Verma, Shivanshi Mishra

Counsel for Respondent(s) :

Court No. - 20

HON'BLE PRASHANT KUMAR, J.

IA/1/2025

1. This is an application for condonation of delay in filing the instant appeal.
2. Heard Ms. Shivanshi Mishra, learned counsel for the appellant and perused the record.
3. This belated appeal has been filed under Section 173 of Motor Vehicle Act, 1988 against the judgment and award dated 15.09.2010 passed by the Motor Accident Claims Tribunal/Additional District Judge, Court No.15, Lucknow in M.A.C.P. No.351 of 2008; Jai Prakash Narayan Mishra v. Kailash Nath Yadav and others.
4. The office has reported a delay of 4720 days in filing the instant appeal.
5. The reasons shown in the affidavit filed in support of delay condonation application are as follows :

"2. That the appellant is preferring this appeal before this Hon'ble Court but there is 5433 days delay in filling the aforesaid appeal.

3. That the Learned Motor Accident Claims Tribunal/Additional District and Session Judge Court No. Lucknow passed the order on 15.09.2010. The order came into knowledge of appellant on the 02.05.2014 when this

Hon'ble High Court issued notice against him FAFO 1441/2010 (Jai Prakash Narayan Shukla versus Kailash Nath Yadav and others).

4. That meanwhile the opposite party No. 3 paid the claim amount to the opposite party No. 3 and preferred a Case before the Learned Motor Accident Claims Tribunal/Additional District and Session Judge Court No. IST. Lucknow for the recovery of the claim amount from the appellant.

5. That the Appellant preferred his objection before the Learned Motor Accident Claims Tribunal/Additional District and Session Judge Court No. IST, Lucknow but the case preferred by the opposite party No.3 got dismissed for default on 05.01.2019.

6. That the appellant got the knowledge of the dismissal of the case when the Recovery Notice was served upon him by the District Magistrate, Jaunpur on 30.08.2024.

7. That after getting knowledge of the recovery notice the appellant immediately applied for the getting the certified copy of the order dated 15.09.2010 but same was not provided to him as the original file has been called before this Hon'ble Court in another Appeal FAFO - 1441/2010 (Jai Prakash Narayan Shukla versus Kailash Nath Yadav and others).

8. That when the appellant got to know about the above fact he immediately applied for the certified copy of the order dated 15.09.2010 before this Hon'ble High Court and as soon as the appellant got the certified copy of the order dated 15.09.2010, he is preferring this appeal before this Hon'ble High Court.

9. That the appellant did not delay deliberately or intentionally. The appellant's appeal is good on merit if his appeal will be heard and decided on merit, he will succeed."

6. Learned Counsel for the appellant submits that there is a delay of 4720 days in filing the instant appeal and the reason for delay has been well explained in the affidavit filed in support of the application for condonation of delay and the delay caused is not deliberate. Hence, the

delay so occasioned may be condoned.

7. Heard learned counsel for the appellant and perused the record.

8. Before proceeding further, this Court would like to delve into various observations of the Hon'ble Supreme Court and also deems it appropriate to look into the provisions of Section 5 of the Limitation Act, which is reproduced herein-under:-

"5. Extension of prescribed period in certain cases.-

Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period, if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation.-The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section."

9. A plain reading of Section 5 of the Limitation Act clearly shows that an appeal may be admitted after the prescribed period, if the appellant satisfies the court that he had sufficient cause for not preferring the appeal within such time. The burden to prove 'sufficient cause' lies on the appellant, who is seeking condonation of delay and he has to prove sufficient cause that the reasons for not approaching the court are real, bonafide and free of negligence. No doubt this expression has been constituted with justice-oriented approach so as to not punish an innocent litigant for circumstances beyond the control. However, the Courts must not condone gross negligence, deliberate inaction, or casual indifference, for to do so would undermine the maxim interest reipublicae ut sit finis litium and destabilise the certainty that limitation law seeks to secure.

10. It has been emphasised by the Hon'ble Supreme Court way back in 1962 in the matter of ***Ramlal v. Rewa Coalfields Ltd.***, reported in ***AIR 1962 SC 361***, that even after sufficient cause has been shown by a party

for not filing an appeal within time, the said party is not entitled to the condonation of delay as excusing the delay is the discretionary jurisdiction vested with the court. The court, despite establishment of a "sufficient cause" for various reasons, may refuse to condone the delay depending upon the bona fides of the party. The relevant extract is as follow :-

"7. In construing Section 5(of the Limitation Act) it is relevant to bear in mind two important considerations. The first consideration is that the expiration of the period of limitation prescribed for making an appeal gives rise to a right in favour of the decree-holder to treat the decree as binding between the parties. In other words, when the period of limitation prescribed has expired the decree-holder has obtained a benefit under the law of limitation to treat the decree as beyond challenge, and this legal right which has accrued to the decree-holder by lapse of time should not be light-heartedly disturbed. The other consideration which cannot be ignored is that if sufficient cause for excusing delay is shown discretion is given to the court to condone delay and admit the appeal. This discretion has been deliberately conferred on the court in order that judicial power and discretion in that behalf should be exercised to advance substantial justice.

12. It is, however, necessary to emphasise that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the court by Section 5. If sufficient cause is not proved nothing further has to be done; the application for condoning delay has to be dismissed on that ground alone." (Emphasis added)

11. The Hon'ble Supreme Court in the matter of **Rajender Singh v. Santa Singh**, reported in **(1973) 2 SCC 705**, has observed that the object of law of Limitation is to prevent disturbance and deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches.

12. The object for fixing time limit for litigation is based on public policy fixing a life span for legal remedy for the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly. To assail the remedy, the person has to be vigilant and has to approach court within the prescribed limitations.

13. The Hon'ble Supreme Court in the matter of ***Maniben Devraj Shah v. Municipal Corporation of Brihan, Mumbai***, reported in ***(2012) 5 SCC 157*** has held in para 24 as under:

"24. What colour the expression "sufficient cause" would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the Court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay." (Emphasis added)

14. The Hon'ble Apex Court in ***Chief Post Master General v. Living Media India Ltd***, reported in ***(2012) 3 SCC 563 : AIR 2012 SC 1506*** has held that unless reasonable and acceptable explanation of delay and sufficient cause is shown, the application need not be accepted.

15. Hon'ble Supreme Court in the matter of ***Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu***, ***(2014) 4 SCC 108***, had held that the doctrine of delay and laches should not be lightly brushed aside. It is the duty of the court to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Delay reflects inactivity and inaction on the part of a litigant, a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.

16. The Hon'ble Apex Court in the matter of ***State of M.P. v. Perfect Sales, Gwalior***, reported in ***AIR 2015 MP 161***, has categorically held that the appellant slept over the matter for 296 days and did nothing to assail the judgment of the subordinate court. It shows careless attitude on the part of the appellant and there being no sufficient cause shown, the delay can not be condoned.

17. This Court has to see the sufficient 'explanation' for condonation of delay and not the 'excuses' for condoning the delay as held by the Hon'ble Supreme Court in the matter of ***Sheo Raj Singh & Others Vs. Union of India and Another***; reported in ***(2023) 10 SCC 531***. The relevant paragraphs 31 and 32 are extracted here-in-below:-

"31. Sometimes, due to want of sufficient cause being shown or an acceptable explanation being proffered, delay of the shortest range may not be condoned whereas, in certain other cases, delay of long periods can be condoned if the explanation is satisfactory and acceptable. Of course, the courts must distinguish between an "explanation" and an "excuse". An "explanation" is designed to give someone all of the facts and lay out the cause for something. It helps clarify the circumstances of a particular event and allows the person to point out that something that has happened is not his fault, if it is really not his fault. Care must, however, be taken to distinguish an "explanation" from an "excuse". Although people tend to see "explanation" and "excuse" as the same thing and struggle to find out the difference between the two, there is a distinction which, though fine, is real.

32. An "excuse" is often offered by a person to deny responsibility and consequences when under attack. It is sort of a defensive action. Calling something as just an "excuse" would imply that the explanation proffered is believed not to be true. Thus said, there is no formula that caters to all situations and, therefore, each case for condonation of delay based on existence or absence of sufficient cause has to be decided on its own facts. At this stage, we cannot but lament that it is only excuses, and not explanations, that are more often accepted for condonation of long delays to safeguard public interest from those hidden forces whose sole agenda is to ensure that a meritorious claim does not reach the higher courts for

adjudication." (Emphasis added)

18. Hon'ble Supreme Court in the matter of ***Union of India and Another V. Jahangir Byramji Jeejeebhoy(D) Through His Lr***, reported in ***2024 SCC OnLine SC 489*** has held as under :-

"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." (Emphasis added)

19. On the touchstone of the dictum noted above, it is crystal clear that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each and every case. The explanation of one case cannot be said to be an explanation of another case. Just because the Court has condoned the delay in few matters, the same cannot be used as a yardstick to condone the delay in other matters too.

20. The expression 'sufficient cause' cannot be liberally interpreted, if negligence, inaction or lack of bona fides is attributed to the party. The burden to prove 'sufficient cause' lies on the applicant, who is seeking condonation of delay and he has to prove sufficient cause that the reasons for not approaching the court are real and bonafide and free of negligence. In a plethora of decisions of Hon'ble the Supreme Court as well as 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.

21. Thus, the delay of 4720 days caused in filing the instant appeal by the appellant is miserably barred by limitation as neither sufficient cause is shown in the application seeking condonation of delay nor the same is found to be the satisfaction of this Court. Therefore, the valid test for condonation of delay is not satisfied, thus the delay at this belated stage cannot be condoned.

22. Considering the aforesaid facts and circumstances, this Court finds that a bleak effort has been done to justify the delay. The delay as stated in the affidavit does not show sufficient cause and accordingly, the instant application for condonation of delay is **rejected**.

23. Consequently, the appeal is also **dismissed** on the ground of delay and laches.

(Prashant Kumar,J.)

March 23, 2026

Anupam S/-