



2026:AHC-LKO:20335

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

FIRST APPEAL FROM ORDER DEFECTIVE No. - 113 of 2023

Tata Aig General Insurance Co. Ltd. Lucknow
Thru. Senior Manager Mr. Sachin Srivastava

.....Appellant(s)

Versus

Smt. Laxmi Thru. Her Husband Mr. Ram
Sanahi And Others

.....Respondent(s)

Counsel for Appellant(s) : Taranjeet Singh Makker, Anchal
Mishra
Counsel for Respondent(s) : Saket Kumar Gupta, Vashu Deo
Mishra

Court No. - 20

HON'BLE PRASHANT KUMAR, J.

C.M. Application No.IA/1/2023 - Delay Condonation

1. Heard Shri Anchal Mishra, learned counsel for the appellant-Insurance Company and learned counsel for the respondents and perused the record.
2. The instant First Appeal From Order has been filed under section 173 of the Motor Vehicles Act, 1988 against the judgment and award dated 29.09.2022 passed by Sri Amar Jeet Verma, M.A.C.T. (South), Lucknow in C.P. No. 485 of 2016.
3. As per office report, this appeal has been filed with a delay of 149 days.
4. The instant appeal has been filed along with the delay condonation application. The affidavit filed in support of the delay condonation application states as under:-

"1. That, the deponent is the Senior Manager (Claims-Legal) of the appellant company posted at its Office in Lucknow & has gone through the records of this case as such is fully conversant with facts deposed hereunder. The Identity proof of the deponent is

annexed herewith.

2. That the certified copy of judgement passed by the Learned Tribunal below alongwith certified copy of claim petition and the opinion of dealing advocate was communicated to the Appellant only on 16.01.2023 due to ill health of the counsel.

3. That the entire file was sent to the head office of the Appellant for its opinion and further guidance.

4. That the head office of the Appellant took the view that the award is liable to be challenged in appeal before this Hon'ble Court as such returned the file alongwith its opinion in the last week of February 2023.

5. That thereafter, the certified copy of judgement and decree were inadvertently kept in another file in the office of the Appellant and got misplaced and could be traced only in the second week of June 2023.

6. That thereafter the file was assigned to the present counsel at Lucknow who immediately prepared the appeal.

7. That thus the delay of 4 months and few days in filing of this appeal is bonafide and for the reasons mentioned hereinabove and the same deserves to be condoned."

5. Shri Anchal Mishra, learned counsel for the appellant-Insurance submits that the delay so occasioned has been explained in the affidavit filed in support of the delay condonation application. He further submits that there is a delay of 149 days in filing the instant appeal as there is a process in the company for filing the appeal, which took reasonable period of time. He further submits that the reasons for delay condonation has been well explained in the affidavit filed in support of the application. The instant appeal does not suffer from delay and laches and the matter requires consideration. The delay caused is not deliberate and, hence the same may be condoned.

6. In this matter the impugned order was passed on 29.09.2022 and after a lapse of four months the opinion was sought from the Advocate and thereafter file was sent to the Head Office who took another five months in filing the appeal. The instant appeal was filed on 30.06.2023.

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

8. It is evident that the reasons given in the affidavit filed along with the delay condonation application does not explain the delay. There is complete silence from the date of impugned order i.e. 29.09.2022 to 16.01.2023 and no explanation is given for this period and then the opinion was received in the month of February, 2023 and thereafter the appellant took another four months to file the instant appeal after the delay of 149 days.

9. The reasons shown for the delay are purely due to bureaucratic set-up at the end of the appellant which is nothing but indolence, negligence and lack of diligence.

10. The Hon'ble Supreme Court as far back in 1962 in the matter of **Ramlal v. Rewa Coalfields Ltd., reported in AIR 1962 SC 361**, has emphasized that even after sufficient cause has been shown by a party for not filing an appeal within time, the said party is not entitled for 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 lightheartedly 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)

10. 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)

11. 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 case 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)

12. Hon'ble Supreme Court in the matter of **Chennai Metropolitan Water Supply & Sewerage Board v. T.T. Murali Babu, reported in (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.

13. Hon'ble Supreme Court in the matter of ***Union of India and Another V. Jahangir Byramji Jeejeebhoy(D) Through His Lr; Civil Appeal No. of 2024 (arising out of S.L.P. (Civil) No. 21096 of 2019) 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)

14. On a harmonious consideration of the provisions of law the Hon'ble Supreme Court in the matter of ***Pathapati Subba Reddy v. Collector (LA), reported in (2024) 12 SCC 336***, has held as follow :-

"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:

(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)

15. In a plethora of judgments, the Hon'ble Supreme Court has held that delay cannot be condoned as a matter of generosity. Rendering substantial justice does not mean causing prejudice to the respondents. It is crystal clear that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case and that, the expression 'sufficient cause' cannot be liberally interpreted, if negligence, inaction or lack of bona fides is attributed to the party.

16. As per the averments made in the instant delay condonation application, it is evident that the reasons given in the affidavit filed along with the delay condonation application does not explain the delay. There is complete silence from the date of impugned order i.e. 29.09.2022 till 16.01.2023 which is four months from the date of impugned order and then the opinion was received in the month

of February, 2023 and thereafter the appellant took another four months to file the instant appeal, after the expiry of the limitation period there is delay of 149 days for which no "sufficient explanation" has been given.

17. The appellant being an insurance company, is equipped with a dedicated legal set-up, trained law officers, and panel advocates who are fully conversant with statutory requirements, procedural steps and limitation periods applicable to such claim petitions. Such an entity is expected to act with due diligence and within the time prescribed by law. Internal administrative procedures, movement of files, or departmental processing cannot constitute "sufficient cause" for delay. Institutional inefficiency, red-tapism, or routine procedural delays are not valid grounds for condonation of delay. Accordingly, when an insurance company or any department fails to act within limitation despite having adequate infrastructure and professional legal assistance, the plea of departmental delay does not justify condonation. The burden lies heavily on such institutional or departmental litigants to show bonafide and unavoidable circumstances otherwise delay cannot be condoned.

18. No litigant should be permitted to be so lethargic and apathetic, much less be permitted by the courts to misuse the process of law. In the instant appeal the delay seems to be because of gross negligence and deliberate inaction and hence no liberal concession can be extended to the appellant.

19. In view of the aforesaid authoritative pronouncement of law as regards object, scope, extent, limitation and the discretionary power to be exercised under Section 5 of the Limitation Act laid down by the Hon'ble Apex Court, this Court is of the view that the reasons shown by the appellant in the delay condonation application is nothing but an eye wash as no case is made out by the appellant as to what prevented him from contesting proceeding. On perusal of the affidavit filed along with the condonation of delay application, it is clear that the appellant-Company Company has failed to establish that they were reasonably diligent in pursuing the matter. Thus, the delay of

149 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 stage cannot be condoned.

20. Considering the aforesaid facts and circumstances, this Court finds that a bleak effort has been done to justify the delay. The reasons given in the affidavit filed along with the delay condonation application seem more like an excuse than the sufficient cause. The delay as stated in the affidavit does not show sufficient cause and accordingly, the instant application for condonation of delay is rejected.

21. Consequently, the instant appeal is dismissed on the ground of delay and laches.

March 17, 2026

Arjun/-

(Prashant Kumar,J.)