IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-6590-2012 (O&M)
Date of Decision: September 26, 2025

Harjinder Kaur and others

...Appellants

VERSUS

Nirmal Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Raj Kumar Rana, Advocate
for the appellants.

Respondent No.1 ex-parte.

Mr.Rohit Kumar, Advocate
for respondent No.2

Mr.Sukhdarshan Singh, Advocate
for respondent No.3.

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ARCHANA PURI, J.

The appellants-claimants have filed the appeal, thereby, seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, on account of death of Bahadur Singh, in a motor vehicular accident. Along with the appeal, applications for seeking condonation of delay of 2 years 6 months and 25 days in filing the appeal as well as for seeking condonation of delay of 24 days in re-filing the appeal have also been filed.

The essential facts, to be noticed, are as follows:-

That, on 14.07.2007, Bahadur Singh along with other persons, was going from Patiala to village Hulka, P.O.Manakpur, P.S. Banur, Tehsil Rajpura, District Patiala. At about 9.00 p.m. when they were waiting for some vehicle, near Ghariyanwala Chowk, Patiala, Constable Gurmail Singh and Langri Dhani Ram also came there. All of them had taken lift in jeep bearing temporary registration No.PB-10BQ-Temp.2007-8500, upto Banur. The jeep was driven, on the correct left hand side of the road, at a moderate speed. At 10.00 p.m., when they travelled only 4 kms. towards Banur and had reached near Stephan Chemical Factory, on Rajpura-Zirakpur road, in the meanwhile, a truck bearing registration No.PB-03Q-9183 came from behind and struck against the rear portion of the jeep. As a result of this accident, Bahadur Singh and Gurmail Singh, fell on the road due to the jerk and other occupants also had fallen in the pits of the road. Besides others, Bahadur Singh was taken to Civil Hospital, Rajpura, where from, he was referred to GMCH, Sector-32, Chandigarh but enroute to hospital, he died, on account of injuries sustained in the accident in question.

The legal representatives of deceased Bahadur Singh i.e. widow and three minor children as well as mother of the deceased, had filed claim petition under Section 166 of the Motor Vehicle Act and the Motor Accident Claims Tribunal, vide impugned Award dated 09.11.2009 had awarded compensation to the extent of Rs.18,09,500/-. Against the Award, the appeal in hand was filed in the year 2012. Along with the same, applications for seeking condonation of delay, as noticed in the earlier portion of the judgment, were also filed.

At the very outset, learned counsel for the appellants-claimants

submitted that the compensation awarded by the Tribunal is not just compensation, as per the settled law. He contends that the future prospects, as such, have not been taken. Even, the loss of dependency has been erroneously worked upon. Under the conventional heads also, the compensation calls for enhancement.

So far as, the condonation of delay is concerned, it is contended by the counsel that there was a reason that the appellants-claimants were not aware of the provisions of filing an appeal. It was only on account Santparkash Kaur, who was minor at the relevant time of filing of the claim petition, gained majority and became aware of availability of remedy of appeal, that the appeal in hand was filed. In fact, widow of deceased was under shock and therefore also, the appeal, as such, was not filed and the requisite delay had accrued.

On the other hand, learned counsel for the respondent has refuted the reason assigned for seeking condonation of delay. In fact, it is submitted that even, qua the legal disability suffered by the Santparkash Kaur, who was minor at the time of filing of the claim petition, will not be of any assistance to the appellants to secure order of condonation of delay.

In this regard, learned counsel for the respondent has relied upon Section 6 and 7 of the Limitation Act, which reads as herein given:-

> *"**6. Legal disability**.—(1) Where a person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the prescribed period is to be reckoned, a minor or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time specified therefor in the third column of the Schedule.*

(2) Where such person is, at the time from which the prescribed period is to be reckoned, affected by two such disabilities, or where, before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period after both disabilities have ceased, as would otherwise have been allowed from the time so specified.

(3) Where the disability continues up to the death of that person, his legal representative may institute the suit or make the application within the same period after the death, as would otherwise have been allowed from the time so specified.

(4) Where the legal representative referred to in sub-section (3) is, at the date of the death of the person whom he represents, affected by any such disability, the rules contained sub-sections (1) and (2) shall apply. (5) Where a person under disability dies after the disability ceases but within the period allowed to him under this section, his legal representative may institute the suit or make the application within the same period after the death, as would otherwise have been available to that person had he not died.

Explanation.— For the purposes of this section, 'minor' includes a child in the womb.

***7. Disability of one of several persons**.—Where one of several persons jointly entitled to institute a suit or make an application for the execution of a decree is under any such disability, and a discharge can be given without the concurrence of such person, time will run against them all; but, where no such discharge can be given, time will not run as against any of them until one of them becomes capable of giving such discharge without the concurrence of the others or until the disability has ceased.*

Explanation I.—This section applies to a discharge from every kind of liability, including a liability in respect of any immovable property.

Explanation II. —For the purposes of this section, the Manager

> *of a Hindu undivided family governed by the Mitakshara law shall be deemed to be capable of giving a discharge without the concurrence of the other members of the family only if he is in management of the joint family property"*

Section 6 of the Limitation Act,1963 as reproduced aforesaid, enables a person disabled by reason of minority, insanity or idiocy to institute a suit or make an application for the execution of a ***'decree'***, within a period of limitation provided, after the disability has ceased. The provision applies only with respect to a suit or an application for the execution of a decree and not in an appeal or any other proceedings. Even, it is important to make reference to the definitions as provided in Section 2 and more particularly, clause (l), which though, does not define a suit, but provides that 'a "**suit**" does not include an appeal or an application'. An appeal, an application and a suit, are dealt with differently, insofar, as the Limitation Act is concerned, as evident from Section 3 also. In this context, it is pertinent to note that the distinction, insofar, Section 5 of the Limitation Act is there, which provides for admission of an appeal or any application, other than an application under any of the provisions of Section XXI of the CPC, even after the prescribed period, if sufficient cause is shown to satisfy the Court.

In this context, reference is made to ***New India Assurance Co. Ltd. Vs. Gopu and another, 2025 INSC 511***, wherein, the Hon'ble Supreme Court, while dealing with legal disability, as provided under Section 6 and 7 of the ibid Act, observed, as herein given:-

> *"10. It is pertinent that till the Act of 1963 came into effect applications for execution of the decree were not specifically excluded from the purview of the provision allowing*

condonation of delay, (Section 5(b) of the Limitation Act of 1871 and Section 5 of the Limitation Act of 1908) which was excluded for the first time under Section 5 of the Act of 1963. It has been held that Section 5 of the Limitation Act does not apply to a suit in ***Ajay Gupta v. Raju, (2016) 14 SCC 314****. Likewise legal disabilities specified in Section 6 creates an exemption and enables the period of limitation to run from the date on which the disability has ceased, only in the case of a suit or an application for the execution of a decree; the last of which we already noticed is excluded under Section 5.*

11. In this context, we refer to the decision of the Full Bench of the High Court of Allahabad in ***Bechi v. Ahsan-Ullah Khan, (1890) SCC Online All 1 [ILR (1890) 12 ALL 461 (FB)]*** *and make the following extract from Mahmood, J's opinion which was concurred by all the other three Hon'ble Judges:*

> *"What effect the minority of some of the defendants has upon the case is the subject of the second question as enunciated by me. And upon this point, I am of the opinion that the defendants-respondents have no case. It is true that some of them are minors, but they are duly represented by guardians whose interests are the same as theirs, and the fact of minority could not prevent the guardians from showing due diligence on behalf of the minors. It is noticeable that Section 7 of the Limitation Act, in extending the period of limitation on account of minority, refers only to suits and applications and makes no mention of appeals, and its provisions are, therefore, unavailable to the minor defendants."*

Section 7 referred to in the above extract is from the: Limitation Act (XV of 1877) and the provisions we are concerned with also is similarly worded, without any mention of appeals.

12. In ***Musthafali v. Subair, 1991 SC Online Ker 269****, the High*

> *Court of Kerala considering the word 'suit' used in Section 6 and defined in the Limitation Act held that the proceedings under Section 110A of the Motor Vehicles Act are in the nature of a suit under the Code of Civil Procedure; since the lis is instituted by presentation of an application, which is more or less like a plaint. The Division Bench of the High Court relied on a Constitution Bench decision of this Court in* ***H.H. Maharana Sahib Shri Bhagwat Singh Bahadur of Udaipur v. State of Rajasthan, 1963 SCC Online SC 119*** *which held*
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> > *"A proceeding which does not commence with a plaint or petition in the nature of plaint, or where the claimant is not in respect of dispute ordinarily triable in a civil court, would prima facie not be regarded as falling within Section 86 of Code of Civil Procedure.." [sic paragraph 5].*
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> *Impliedly, the exemption by reason of a disability applies to the institution of an original proceeding or an application for execution of a final decree, which will not apply in the case of an appeal. Appeal is a continuation of the original proceeding and if, as is the case here, when the original proceeding was instituted at the time of minority, why should there be a subsequent disability inferred, when the natural guardian, the father, who instituted the appeal was alive and did not suffer from any disability himself, even when the appeal period stood expired. The above observation of ours may not be taken as Section 6 being applicable to appeals, which the legislature did not intend."*

In the case under consideration, in the aforesaid authority, it was observed that the father, as a natural guardian had instituted the original proceeding before the Motor Accidents Claims Tribunal, filed for compensation, for the death of his wife, in a motor vehicle accident, with both the minor children were arrayed as claimants, represented by the father,

the natural guardian. However, the father did not choose to file an appeal from the Award. In fact, the Insurance Company had filed an appeal from the Award of the Tribunal. Thereupon, also the father and the two minor children were made party and they appeared through counsel. The father did not choose to file an appeal seeking enhancement of the claim amounts. However, the father did not chose to file cross appeal, seeking enhancement of the claim amount. In this context, it was observed that the father, who is natural guardian took a conscious decision, not to file an appeal and was satisfied with the Award. Even though, in the application for condonation of delay, filed therein, various pleas, with regard to the father, having married and the children being abandoned, who were in the care of their grandparents, were asserted but these were held to be not substantiated, which otherwise also, by any such substantiation, would not have enabled the filing of an appeal under Section 6, the exemption under which, based on a disability, is confined to suits and applications for execution of a decree. Therein, also it was observed that the intention of the legislature being very clear, it is not for the Courts to extend the period of limitation on misplaced sympathies. Even, it was further held that Section 5 has no application in the facts of the case, insofar, as the long delay occasioned, especially when in the original proceedings, the children were represented by the father, the natural guardian.

Consequently, qua the case under consideration, it was concluded about the appeal filed to be grossly delayed and hence, not maintainable.

In the case in hand, apart from asserting about the one of the daughters to have attained majority and only thereupon, having come to

know about the availability of the remedy of appeal to be there, it was also in a vague manner stated about the widow of the deceased to be under shock.

What is to be understood by 'sufficient cause' in Section 5 of the Limitation Act, has been elaborately considered by the Hon'ble Supreme Court in the latest decision rendered in ***Shivamma (Dead) by LRs. Vs. Karnataka Housing Board and others, 2025 INSC 1104***, wherein, it was observed, as herein given:-

> *"116. As already discussed in the foregoing parts, for the purpose of seeking condonation of delay under Section 5 of the Limitation Act, the party has to demonstrate the existence of a "sufficient cause" "within the prescribed period" to the satisfaction of the court. Thus, establishment of "sufficient cause" is the first ingredient for the purpose of condonation of delay. Insofar, as what is meant by the phrase "sufficient cause", neither Section 5 nor the Limitation Act itself provide any guidance on what its constituent elements ought to be. Instead, Section 5 leaves the task of determining appropriate reasons for seeking condonation of delay to judicial interpretation and Special Leave Petition (C) No. 10704 of 2019 Page 74 of 170 exercise of discretion upon the facts and individual circumstances of each case.*
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> *117. While there is no arithmetical formula, through decades of judicial application, certain yardsticks for judging the sufficiency of cause for condonation of delay have evolved. Mere good cause is not sufficient enough to turn back the clock and allow resuscitation of a claim otherwise barred by delay. The court ought to be cautious while undertaking such an exercise, being circumspect against condoning delay which is attributable to the applicant. Although the actual period of delay might be instructive, it is the explanation for the delay which would be the decisive factor.*

118. The court must also desist from throwing the baby out with the bathwater. A justice-oriented approach must be prioritised over technicalities, as one motivation underlying such rules is to prevent parties from using dilatory tactics or abusing the judicial process. Pragmatism over pedanticism is therefore sometimes necessary, despite it appearing liberal or magnanimous. The expression "sufficient cause" should be given liberal construction so as to advance substantial justice.

119. 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. Despite the liberal approach being adopted in such matters, which was termed justifiable, this Court lamented that the message had not percolated down to all the other courts in the hierarchy and, accordingly, emphasis was laid on the courts adopting a liberal and justice-oriented approach. [See: Sheo Raj Singh v. Union of India, (2023) 10 SCC 531]

120. 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. [See: Sheo Raj

Singh v. Union of India, (2023) 10 SCC 531]"

Therein, to emphasise upon the principles governing 'sufficient cause', as summarized in ***Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy & Ors, (2013) 12 SCC 649***, was also taken into consideration and reproduced therein, which are as follows:-

> *"21. From the aforesaid authorities the principles that can broadly be culled out are:*
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> *21.1. (i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.*
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> *21.2. (ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.*
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> *21.3. (iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.*
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> *21.4. (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.*
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> *21.5. (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.*
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> *21.6. (vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.*
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> *21.7. (vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.*
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> *21.8. (viii) There is a distinction between inordinate delay and*

a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

21.9. (ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

21.10. (x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

21.11. (xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

21.12. (xii) The entire gamut of facts are to be carefully scrutinised and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.

21.13. (xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude."

Besides, considering the aforesaid principles, furthermore, some guidelines, taking note of the present scenario, were also given by the Hon'ble Supreme Court, which reads, as herein given:-

"22.1. (a) An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.

22.2. (b) An application for condonation of delay should not be

dealt with in a routine manner on the base of individual philosophy which is basically subjective.

22.3. (c) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.

22.4. (d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters."

In ***Pathapati Subba Reddy (Died) by L.Rs. v. Special Deputy Collector (LA), 2024 SCC OnLine SC 513***, the Hon'ble Court summarized the principles governing the exceptions imagined under 'sufficient cause' vis-à-vis substantive justice, as herein given:-

"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;*
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> *(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*
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> *(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."*
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> *(Emphasis supplied)"*

Considering the aforesaid, the Hon'ble Supreme Court in ***Shivamma's case (supra)***, dilated further on the phrase 'sufficient cause' as provided under Section 5 of the Limitation Act and furthermore, has also provided a guideline for the Courts to adopt pragmatic approach and while drawing a distinction between a case, where delay is inordinate and a case, where the delay is of few days. Relating to the same, it was also observed that in the former case, the consideration of prejudice to the other side, will be a relevant factor, so the case calls for a more cautious approach but in the latter case, no such consideration may arise and such a case deserves a liberal approach.

In the light of the aforesaid, each case for condonation of delay, based on existence or absence of sufficient cause, has to be decided on its

own facts. Exercise of this discretion at times, call for liberal and justice-oriented approach by the Courts, where, certain leeway could be provided, if circumstances, so called for. However, the condonation of delay, being a discretionary power, available to the Court, do not mean that the Courts are not required to consider the existence of 'sufficient cause'. Exercise of discretion, must necessarily depends upon the sufficiency of the cause shown and the degree of the acceptability of the explanation, the length of delay being immaterial. Sometimes, due to want of 'sufficient cause' being shown or an acceptable explanation being proffered, the delay of the shortest range may not be condoned, whereas, in certain other cases, the delay of long period can be condoned, if the explanation is satisfactory and acceptable.

Now, adverting to the case in hand, as already observed aforesaid, it should be noted that in the appeal, there is delay of 2 years 6 months and 25 days, in filing the appeal and 24 days in re-filing the appeal.

Firstly, coming to the application filed for seeking condonation of delay in filing the appeal, the detail whereof, has already been reproduced in the earlier portion of the judgment, it is pertinent to mention that though, it makes reference to appellant No.2, who is daughter of deceased Bahadur Singh, having become major and having been impleaded in her independent capacity, but no further details, as such, were given with regard to her having attained majority. Anyhow, as Section 6 is not applicable, so far as, appeal in hand, is concerned, it matters not much. But however, at a subsequent stage, much later, an additional affidavit was filed, where, it is stated that she attained majority on 02.10.2011. It is claimed that she had visited the office of trial Court counsel on 01.09.2012 and then she came to

know about the remedy of appeal available to her and the appeal was thereafter filed. She also stated therein about the counsel having disclosed that he had advised her mother, but perhaps, she being under mental shock, could not understand the advice.

It has been rightly contended by learned counsel for the respondent, while making reference to the reply that in fact, Santparkash Kaur, daughter of deceased, at first instance, had not filed any affidavit along with the application. In fact, it is her mother, Harjinder Kaur, who had filed the affidavit and she had stated herself, to be under mental shock. This assertion in itself is not sufficient. The plea of Harjinder Kaur-widow, having become dumb struck, does not stand substantiated by any material. It is understandable, on account of death of her husband, Harjinder Kaur, must have passed through a traumatic state of mind, but the period of delay, to be considered is quite inordinate and suffice to meet the same, had the medical record, as such, been produced, thereby, specifying her ailment, but nothing, as such, came forth.

The duration of delay is a weighing factor. The provision for the limitation has been made, not with the object of destroying party's right, but to ensure that the parties approach the Courts, without unreasonable delay. However, extension of prescribed period, can be considered by the Courts, if sufficient cause for not preferring the appeal, is made out. The burden to establish 'sufficient cause' lies upon the party, seeking condonation, and the Court must be satisfied that the cause is real, bonafide, and free of negligence. However, in the case in hand, but for the bald assertion about widow of deceased to be under mental shock, there is no other material coming forth, to so substantiate this unfortunate condition, as alleged.

In the light of the same, the requisite ‘sufficient cause’, capable of extending the limitation, as such, by way of condonation, does not stand established. Thus, no case is made out for condonation of delay in filing and re-filing the appeal. Hence, the applications for seeking condonation of delay, are hereby dismissed. Consequently, FAO-6590-2012 also stands dismissed.

September 26, 2025 **(ARCHANA PURI)**
Vgulati **JUDGE**

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