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2025:CGHC:53213

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1359 of 2019

- Gajanand Nirmalkar S/o Jthuram Nirmalkar Aged About 35 Years R/o Taigor Nagar, Thana- Tikarapara, Raipur, District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

... Appellant

versus

1. Bhikham Masel S/o Shri Ganeshram Masel Aged About 19 Years R/o Mangal Market Gudhiyari, Thana- Gudhiyari District- Raipur, Chhattisgarh (Driver Of The Offending Vehicle Motor Cycle No. C.G. No. 04/k.W./9360), District : Raipur, Chhattisgarh

2. Deepak Kumar Yadav S/o Shri Kheduram Yadav Aged About 25 Years R/o- Sadupara Thana Gudhiyari, District- Raipur, Chhattisgarh (Owner Of The Offending Vehicle Motor Cycle No. C.G No. 04/k.W./9360), District : Raipur, Chhattisgarh

3. The Oriental Insurance Company Limited, Through Branch Manager, Address Madina Belding Jel Road, District- Raipur, Chhattisgarh (Insurer Of The Offending Vehicle Motor Cycle No. C.G. No. 04/k.W./9360), District : Raipur, Chhattisgarh

... Respondents

For Appellant	:	Ms. Shaleeni jangde, Advocate on behalf of Mr. A.L. Singroul, Advocate
For Respondent No. 3	:	Mr. H.S. Patel, Advocate

Hon’ble Shri Justice Rakesh Mohan Pandey

Judgment On Board

31-10-2025

1) Heard on I.A. No. 01/2019, an application for condonation of delay in filing the appeal.

2) The appellant/ claimant has filed this appeal assailing the award dated 31.3.2017 passed in Claim Case No. 360/2014 by the learned First Additional Presiding Officer to the First Additional Motor Accident Claims Tribunal, District Raipur (C.G.) whereby compensation of Rs. 62,628/- has been awarded with interest @ 7.5% p.a. from the date of filing of the claim application till its realization.

3) Learned counsel for the appellant submits that appellant had no knowledge of the legal procedure and the law of limitation. She further submits that the appellant was under the impression that no limitation period is prescribed for filing an appeal and when the appellant contacted his counsel at the High Court, it was informed that limitation to prefer an appeal is 90 days. She contends that thereafter, necessary steps were taken and appeal was preferred with delay of 739 days. She prays to condone the delay.

4) On the other hand, learned counsel appearing for the Insurance Company submits that there is an inordinate delay of 739 days in filing the instant appeal. He further submits that the appellant herein contested the claim case before the Claims Tribunal and after passing of award, he failed to prefer appeal within limitation, therefore, this appeal deserves to be dismissed on the grounds of delay.

5) I have heard learned counsel for the parties and perused the documents.

6) Admittedly, the award was passed on 31.7.2017 and this appeal was preferred on 8.7.2019. In the application for condonation of delay, the

appellant has stated that he was under bonafide impression that there is no limitation prescribed for filing an appeal and only when he contacted his counsel at the High Court at later stage, he was informed about the law of limitation and thereafter, he preferred the instant appeal with delay of 739 days.

7) Recently, the Hon'ble Supreme Court in the matter of ***Pathapati Subba Reddy (Died) by LRs. & Others*** **vs.** ***The Special Deputy Collector (LA)***[1] dealt with the object of the law of limitation. In para 10 & 11, the object and import of Section 3(1) of the Limitation Act were considered and it was observed thus:-

> "***10.*** *Section 3(1) of the Limitation Act, for the sake of convenience, is reproduced herein-below:*
>
> *3. Bar of limitation. - (1) Subject to the provisions contained in sections 4 to 24 (inclusive), every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed, although limitation has not been set up as a defence.*
>
> ***11.****Though Section 3 of the Act mentions about suit, appeal and application but since in this case we are concerned with appeal, we would hereinafter be mentioning about the appeal only in context with the limitation, it being barred by time, if at all, and if the delay in its filing is liable to be condoned.*"

8) The Hon'ble Court referred to various judgments in the matter of ***Pathapati Subba Reddy*** (supra) in paras 19, 20, 21, 22 and 23, which are reproduced herein-below:-

> "***19.*** *In* ***Maqbul Ahmad and Ors. vs. Onkar Pratap Narain Singh***[2] ***and Ors,*** *it had been held that the court cannot grant an exemption from limitation on*

1. **(2024) 4 SCR 241 ; 2024 SCCOnLine SC 513**
2. **AIR 1935 PC 85**

equitable consideration or on the ground of hardship. The court has time and again repeated that when mandatory provision is not complied with and delay is not properly, satisfactorily and convincingly explained, it ought not to condone the delay on sympathetic grounds alone.

***20.** In this connection, a reference may be made to **Brijesh Kumar and Ors. vs. State of Haryana and Ors**[3]**,** wherein while observing, as above, this Court further laid down that if some person has obtained a relief approaching the court just or immediately when the cause of action had arisen, other persons cannot take the benefit of the same by approaching the court at a belated stage simply on the ground of parity, equity, sympathy and compassion.*

***21.** In **Lanka Venkateswarlu vs. State of Andhra Pradesh & Ors**[4]**.**, where the High Court, despite unsatisfactory explanation for the delay of 3703 days, had allowed the applications for condonation of delay, this Court held that the High Court failed to exercise its discretion in a reasonable and objective manner. High Court should have exercised the discretion in a systematic and an informed manner. The liberal approach in considering sufficiency of cause for delay should not be allowed to override substantial law of limitation. The Court observed that the concepts such as 'liberal approach', 'justice- oriented approach' and 'substantial justice' cannot be employed to jettison the substantial law of limitation.*

***22.** It has also been settled vide **State of Jharkhand & Ors. vs. Ashok Kumar Chokhani & Ors.**[5]**,** that the merits of the case cannot be considered while dealing with the application for condonation of delay in filing the appeal.*

***23.** In **Basawaraj and Anr. vs. Special Land Acquisition Officer**[6], this Court held that the discretion to condone the delay has to be exercised judiciously based upon the facts and circumstances of each case. The expression 'sufficient cause' as occurring in Section 5 of the Limitation Act cannot be liberally interpreted if negligence, inaction or lack of bona fide is writ large. It was also observed that*

3. **2014 4 SCALE 50**
4. **(2011) 4 SCC 363**
5. **AIR 2009 SC 1927**
6. **(2013) 14 SCC 81**

even though limitation may harshly affect rights of the parties but it has to be applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds."

9) In para 26, the Hon'ble Supreme Court in the matter of ***Pathapati Subba Reddy*** (supra) summarized the judgments passed in the above stated decisions and the same is reproduced herein-below:-

"**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.*"

10) In para 30, the Hon'ble Supreme Court held that condonation of the delay merely for the reason that the claimant have been deprived of the interest for the delay without holding that they had made out a case for condoning the delay is not a correct approach. Para 30 is reproduced herein-below:-

> "***30.*** *The aforesaid decisions would not cut any ice as imposition of conditions are not warranted when sufficient cause has not been shown for condoning the delay. Secondly, delay is not liable to be condoned merely because some persons have been granted relief on the facts of their own case. Condonation of delay in such circumstances is in violation of the legislative intent or the express provision of the statute. Condoning of the delay merely for the reason that the claimant have been deprived of the interest for the delay without holding that they had made out a case for condoning the delay is not a correct approach, particularly when both the above decisions have been rendered in ignorance of the earlier pronouncement in the case of Basawaraj (supra).*"

11) The Hon'ble Supreme Court in the matter of ***Pathapati Subba Reddy* (supra)** further held that the phrases 'liberal approach', 'justice-oriented approach' and 'cause for the advancement of substantial justice' cannot be employed to defeat the law of limitation so as to

allow stale matters or as a matter of fact dead matters to be revived and re-opened by taking aid of Section 5 of the Limitation Act.

12) Taking into consideration the facts discussed above and the law laid down by the Hon'ble Supreme Court in the matter of ***Pathapati Subba Reddy*** (supra), in the opinion of this Court, the appellant has not explained the delay properly, therefore the application for condonation of delay [I.A. No. 1/2019] is liable to be and is hereby rejected.

13) Consequently, the appeal is also **dismissed**. No cost(s).

Sd/-
(Rakesh Mohan Pandey)
JUDGE

Ajinkya