



HIGH COURT OF ANDHRA PRADESH
WEDNESDAY ,THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE B SYAMSUNDER

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 147 OF 2023

Between:

1. ICICI LOMBARD GENERAL INSURANCE Rep.by its Duly Constituted Attorney,
D.No.25-5-57,1st floor, Shobha Complex,
Opposite DIG Bungalow, N.R.Pet, Eluru, Andhra Pradesh.
(presently represented by its Manager-Legal,
having branch office at D.No.39-1-82/A, 5th Floor,
Anjaneya Towers, Labbipet, M.G.Road,
Vijayawada 520 010)

...PETITIONER(S)

AND:

1. SMT. GADDE SANTHA KUMARI W/o. Late Prasanna Kumar, Christian, female, aged 22 years , Housewife, R/o. DNo.4-52-1, Bhaskara Rao Pet, Peda Lanka, Krishna District.
2. Gadde Mahitha, D/o. Late Prasanna Kumar, Christian, female, aged 1 year, Dependent, R/o. DNo.4-52-1, Bhaskara Rao Pet ,Peda Lanka, Kalindindi Mandal, Krishna District.
(2nd respondent being minor rep. by his mother and natural guardian Smt.Gadde Santha Kumari i.e. ,1st respondent herein)
3. Gadde Janesamma, W/o. Moshe, Christian, female, aged 51 years, Housewife, R/o.D.No.4-52/2, Near Church, Bhaskara Rao Pet Kalindindi Mandal, Krishna District.

...RESPONDENTS

Counsel for the Petitioner(s): S PRANATHI

Counsel for the Respondents: KAMBHAMPATI RAMESH BABU

The Court made the following: ORDER



**THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
AND**

THE HON'BLE SRI JUSTICE B SYAMSUNDER

I.A. No. 1 of 2023

IN

M.A.C.M.A. No. 147 of 2023

JUDGMENT:- *(Per Hon'ble Sri Justice Ravi Nath Tilhari)*

1. Heard Sri. M. Rahul, Advocate, appearing on behalf of Ms. S. Pranathi, learned Counsel for the Appellant and Sri.Khamhbampati Ramesh Babu, learned Counsel for the Respondent Nos. 1 to 3/Caveators.

2. The appeal is filed by the ICICI Lombard General Insurance [in short 'Insurance Company'] under Section 173 of the Motor Vehicles Act, 1988, [in short '**M.V. Act**'] against the Award, dated 09.10.2019, passed in favor of the claim Petitioners in M.V.O.P. No.591 of 2016 [present Respondent Nos. 1 to 3], passed by Motor Accidents Claims Tribunal-cum-VII Additional District and Sessions Judge, West Godavari, Eluru [in short '**the Tribunal**'].

3. The Respondent Nos. 1 to 3 filed M.V.O.P. No. 591 of 2016, claiming compensation on account of death of Gadde



Prasanna Kumar [**deceased**] in the accident dated 28.10.2015 caused due to rash and negligent driving of the auto bearing registration No. AP 37 TD 3492 driven by its driver (Respondent No. 4), owned by Respondent No. 5 and insured with the Appellant [Respondent No. 3 in the M.V.O.P.].

4. The Tribunal awarded the claim in terms of its Award, dated 09.10.2019..

5. I.A. No. 1 of 2023 has been filed for condonation of delay in filing the appeal.

6. The appeal is filed with delay of 1160 days.

7. Learned Counsel for the appellant submits that the delay occurred due to administrative reasons. In this respect, he has referred to paragraph 3 of the affidavit in support of I.A. No. 1 of 2023.

8. Sri. Khamhbampati Ramesh Babu, Advocate, submits that, the cause for delay as shown in para 3 is not sufficient to condone long delay of 1160 days, which is not



liable to be condoned and the application deserves to be rejected.

9. We have considered the submissions advanced and perused the affidavit in support of I.A. No. 1 of 2023.

10. It is appropriate to reproduce paragraph No. 3 of the affidavit, as under:

“3. I submit that the award of the compensation by the tribunal is highly excessive and contrary to the settled principles of law. Hence, aggrieved by the same, the insurance company decided to prefer an appeal against the same. The Hon’ble Tribunal delivered its judgment on 09.10.2019 and our counsel before the tribunal made an application for certified copy on 11.10.2019 and after payment of stamps, it was made ready on 28.10.2019 and delivered on the same day. Thereafter, our counsel took some time for examining the judgment and opined that the compensation awarded is excessive and advised to prefer an appeal. The copies of judgment along with other documents was sent to our local branch office and subsequently they are forwarded to our regional office at Hyderabad.

I further submit that around this period, a nationwide lockdown was announced owing to the outbreak of corona virus and our offices remained shut and the employees operated remotely for almost 2 years



i.e., up to March, 2022. The relevant file also could not be traced during the above period and despite the efforts of the company officials, the file could not be traced for several days. Giving a sigh of relief, the file was traced out in the month of July, 2022 and immediately, the concerned official got approvals for preferring an appeal and got issued a pay order no.908446 dated 07.08.2022 for an amount of Rs.25,000/- towards appeal deposit under Section 173(1) of the Act. The same was deposited to the credit of the Hon'ble Tribunal vide memo filed on 30.08.2022. Thereafter, the original deposit memo was forwarded to our regional office and the matter was entrusted to the counsel empanelled with our company. In the process, an inadvertent delay has been caused in preferring this instant appeal. The delay in filing this appeal is neither willful nor wanton but due to aforesaid reason only. If the delay is not condoned and the appeal is not allowed, the appellant insurance company will be put to severe loss.”

11. As per the aforesaid paragraph, the copy of the judgment, dated 09.10.2019, was applied on 11.10.2019 and after payment of stamps, it was made ready on 28.10.2019, on which date itself it was delivered. The period of limitation expired on 25.01.2020. The explanation that, the file was misplaced and the file could not be traced during the period of almost two years up to March 2022



and it was traced only in the month of July, 2022, does not inspire confidence. The pay order itself was issued on 07.08.2022 and the memo was filed on 30.08.2022. Since, thereafter, till presentation of the appeal on 29.03.2023, there is delay of almost 07 months, for which there is no explanation. The averments are only general and vague. There is long time gap between the events as disclosed, for which there is no explanation coming forward.

12. Section 173 of the M.V. Act, provides as under:

“173. Appeals:- 1) Subject to the provisions of sub-section (2), any person aggrieved by an award of a Claims Tribunal may, within ninety days from the date of the award, prefer an appeal to the High Court:

Provided that no appeal by the person who is required to pay any amount in terms of such award shall be entertained by the High Court unless he has deposited with it twenty-five thousand rupees or fifty per cent of the amount so awarded, whichever is less, in the manner directed by the High Court;

Provided further that the High Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.



(2) No appeal shall lie against any award of a Claims Tribunal, if the amount in dispute in the appeal is less than ¹[one lakh] rupees”.

13. In **Brahampal Alias Sammay and another vs. National Insurance Company**¹, the Hon’ble Supreme Court held that, in the second proviso to Section 173 M.V. Act, it is stated that Court has the power to condone delay only if it is satisfied that there existed “sufficient cause”. In such cases, where there exists inordinate delay and the same is attributable to the party’s inaction and negligence, the Courts have to take a strict approach so as to protect the substantial rights of the parties. It was emphasized that, while giving a liberal interpretation to ‘sufficient cause’, there is necessity of distinguishing cases where delay is of few days, as against the cases where the delay is inordinate, as it might cause prejudice of the rights of the other party.

¹ (2021)6 SCC 512



14. It is apt to refer paragraphs 15 to 19 of **Brahampal** (supra) as under:-

“15. Secondly, it has been held that if the specific conditions wherein the power could be exercised is also provided in the statute, then the Court must exercise the aforesaid discretion in the manner as specified by the statute itself. In the second proviso to Section 173 it is stated that Court has the power to condone delay only if it is satisfied that there existed “sufficient cause”.

16. At this juncture, we need to interpret the term “sufficient cause” as a condition precedent for the granting of the discretionary relief of allowing the appeal beyond the statutory limit of ninety days. Although this Court has held that provisions of the Limitation Act, 1963 does not apply while deciding claims under the Motor Vehicles Act, but it is relevant to note that even while interpreting “sufficient cause” under the Limitation Act Courts have taken a liberal interpretation. This Court in the case of **Perumon Bhagvathy Devaswom, Perinadu Village vs. Bhargavi Amma (Dead) by LRs**, (2008) 8 SCC 321, observed that:

“13....The words “sufficient cause for not making the application within the period of limitation” should be understood and applied



in a reasonable, pragmatic, practical and liberal manner, depending upon the facts and circumstances of the case, and the type of case. The words “sufficient cause” in Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice, when the delay is not on account of any dilatory tactics, want of bona fides, deliberate inaction or negligence on the part of the appellant.” (emphasis supplied)

17. The aforesaid view was reiterated in the case of **Balwant Singh (Dead) vs. Jagdish Singh**, (2010) 8 SCC 685, wherein this Court held that:

“25. We may state that even if the term “sufficient cause” has to receive liberal construction, it must squarely fall within the concept of reasonable time and proper conduct of the party concerned. The purpose of introducing liberal construction normally is to introduce the concept of “reasonableness” as it is understood in its general connotation.

26. The law of limitation is a substantive law and has definite consequences on the right and obligation of a party to arise. These principles should be adhered to and applied appropriately depending on the facts and circumstances of a given case.

Once a valuable right has accrued in favour of one party as a result of the failure of the other



party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or inaction of that party. Justice must be done to both parties equally. Then alone the ends of justice can be achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law as a result of his acting vigilantly.” (emphasis supplied)

18. The Court in the abovementioned cases, highlighted upon the importance introducing the concept of “reasonableness” while giving the clause “sufficient cause” a liberal interpretation. In furtherance of the same, this Court has cautioned regarding the necessity of distinguishing cases where delay is of few days, as against the cases where the delay is inordinate as it might accrue to the prejudice of the rights of the other party. In such cases, where there exists inordinate delay and the same is attributable to the party’s inaction and negligence, the Courts have to take a strict approach so as to protect the substantial rights of the parties.



19. The aforesaid view was taken by this Court in the case of **Maniben Devraj Shah vs. Municipal Corporation of Brihan Mumbai**, (2012) 5 SCC 157 wherein the Court held that:

“23. What needs to be emphasised is that even though a liberal and justice oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost.

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 supplied).



15. The cause as mentioned relating to outbreak of CORONA, 2019 virus, is also not found sufficient, as the period of limitation expired on 25.01.2020, much before the outbreak of CORONA 2019.

16. The delay is inordinate and unexplained, which is reflective of the appellant's negligence and inaction, in filing appeal.

17. We are not oblivious of the judgments on the point that the decisions are taken by officers/agencies proverbially at slow pace and encumbered process of pushing the files from table to table and keeping it on table for considerable time causing delay intentional or otherwise being a routine and consequently the considerable delay of procedural red-tape in the process of making decision being a common feature and, therefore, certain amount of latitude is not impermissible.

18. In ***State of Nagaland Vs. Lipok AO and Others***², the Hon'ble Apex Court held that, the factors which are peculiar to and characteristic of the functioning of the

² (2005) 3 Supreme Court Cases 752



governmental conditions would be cognizant to and requires adoption of pragmatic approach in justice oriented process. It was further held that the State cannot be put on the same footing as an individual as the individual would always be quick in taking the decision whether he would pursue the remedy by way of an appeal or application since he is a person legally injured, while the State is an impersonal machinery working through its officers or servants. At the same time, it was also held that, the proof by sufficient cause is a condition precedent for exercise of the extraordinary discretion vested in the court. What counts is not the length of the delay, but the sufficiency of the cause and shortness of the delay is one of the circumstances to be taken into account in using the discretion.

19. In ***Postmaster General and Others Vs. Living Media India Limited and Others***³, the Hon'ble Apex Court held that, in the absence of plausible and acceptable explanation, the delay is not to be condoned mechanically

³ (2012) 3 Supreme Court Cases 563



merely because the Government or a wing of the Government is a party.

20. It is apt to refer to para 29, in which, the Hon'ble Apex Court held that, *"in our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."*

21. In ***Maniben Devraj Shah Vs. Municipal Corporation of Brihan, Mumbai***⁴, the Hon'ble Apex Court held that, *"the law of limitation is founded on public*

⁴ (2012) 5 Supreme Court Cases 157



policy. The Limitation Act, 1963 has not been enacted with the object of destroying the rights of the parties but to ensure that they approach the Court for vindication of their rights without unreasonable delay. The idea underlying the concept of limitation is that every remedy should remain alive only till the expiry of the period fixed by the Legislature. At the same time, the Courts are empowered to condone the delay provided that sufficient cause is shown by the applicant for not availing the remedy within the prescribed period of limitation.” It is was further held that, “in cases involving the State and its agencies/instrumentalities, the Court can take note of the fact that sufficient time is taken in the decision making process but no premium can be given for total lethargy or utter negligence on the part of the officers of the State and / or its agencies / instrumentalities and the applications filed by them for condonation of delay cannot be allowed as a matter of course by accepting the plea that dismissal of the matter on the ground of bar of limitation will cause injury to the public interest.”



22. There are no good grounds to condone the inordinate delay of 1160 days.

23. I.A. No. 1 of 2023 is **rejected**.

24. Consequently, the Appeal is **dismissed** as barred by limitation.

25. The Award was passed on 09.10.2019. Learned Counsel for the Respondents submits that they have not been paid any amount.

26. We direct the Tribunal to proceed expeditiously to execute the Award, in accordance with law.

27. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

RAVI NATH TILHARI, J

B. SYAMSUNDER, J

Date: 28.06.2023

Note:

L.R. copy to be marked.

B/o.SM/..



**THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
AND
THE HON'BLE SRI JUSTICE B SYAMSUNDER**

I.A. No. 1 of 2023

IN

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SM/..