
(1995) 05 RAJ CK 0011

In the Rajasthan High Court

Case No : C. Miscellaneous Appeal No's. 582, 587, 591 and 592 of 1994 (Def.)

New India Insurance Co. Ltd. and Others

APPELLANT

Vs

Smt. Keshar and Others

RESPONDENT

Date of Decision : 02-05-1995

Acts Referred:

Limitation Act, 1963 — Section 5

Motor Vehicles Act, 1988 — Section 173

Citation : (1996) ACJ 1057 : AIR 1996 Raj 28

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Advocate : N.P. Gupta, for the Appellant; Prakash Tatia, Ramesh Chandra and Mahendra Trivedi, for the Respondent

Final Decision : Dismissed

Judgement

B.J. Shethna, J.—Heard learned counsel for the parties.

2. All these four applications for condonation of delay are being disposed of by this common order as they are filed in appeals arising out of the common judgment passed by learned Judge, Motor Accidents Claims Tribunal, Banswara on 20th October, 1993. There is a delay of 16 days. The ground which is sought to be made out for condoning the delay is of administrative exigencies. Relying upon the judgment of the Supreme Court in case of State of Rajasthan Vs. Umrao Singh, Mr. Gupta submitted that the delay be condoned.

3. There is no straight jacket formula for condoning the delay in all cases on the ground of administrative exigencies. First of all, the case has to be made out for the same and delay has to be explained by making out a sufficient cause for condoning the same. The judgment of the Supreme Court in case of Umrao Singh would not apply to the facts of this case. The facts of that case were peculiar. In that case, the father of the petitioner who was serving as Sub-Inspector or, CID (Special Branch) died while on duty. His son applied to the State for appointing him on compassionate ground, and he was appointed as L.D.C. on

compassionate ground. After accepting the appointment as L.D.C., he sought appointment as Sub-Inspector, which was denied by the State. Therefore, he filed a writ petition before the learned single Judge of this High Court. The learned single Judge directed the State Government to consider his candidature for appointment to the post of Sub-Inspector in accordance with the Rules. That judgment of the learned single Judge was challenged by the State in Special Appeal before the Division Bench of this Court. There was a delay of 112 days in filing the said appeal, which was not condoned by the Division Bench. The appeal of the State was dismissed on that ground alone. Aggrieved by that order passed by the Division Bench of this High Court of not condoning the delay and deciding the appeal on merits, the State Government moved the Supreme Court by way of S.L.P., which was allowed by the Supreme Court. While allowing the S.L.P., the Supreme Court found that the delay was caused on account of administrative exigencies and the failure to condone the delay resulted in injustice to the State, because the judgment of the learned single Judge had set the bad precedent. Under those circumstances, the delay was condoned by the Supreme Court, and instead of remanding the matter to the High Court, the Supreme Court decided the matter on merits and allowed the SLP and set aside the order passed by the learned single Judge of this Court.

4. Now, the facts of the present case are totally different. The learned Tribunal by a common judgment and award, dated 20th October, 93 allowed the claim petitions of the different claimants, and awarded in all Rupees 9,99,000/-, like other claim petition. By deciding the present claim petitions, the learned Tribunal has not set up any bad precedent.

5. In this case, there is a delay of only 16 days. But, the Insurance Company has miserably failed to explain the delay. Therefore, there is no question of condoning the delay, on the ground of administrative exigencies, though, it is of 16 days only.

6. It is to be stated that the impugned judgment and award was passed on 20th October, 1993, the certified copy of the same was applied on the same day, and received on 28th October, 93. It was immediately sent by the counsel of Insurance Company to the divisional counsel with an information to file an appeal, of course the date is not mentioned. However, the Insurance Company thought it fit to have a second opinion from the Senior Advocate from the Divisional Office of the Senior Advocate of the Company, which was received by them on 10-11-93. On the same day, the papers were forwarded to the Regional Office at Jaipur for necessary sanctions. The total awarded amount was Rs. 9,99,000/-. Therefore, the matter was referred to the Head Office for necessary instructions. They were sent to the Divisional Office telephonically for filing the appeal immediately and the telex message was also sent to the Divisional Office at Udaipur, and on receipt of the telex message on 10-2-94, the papers were forwarded by the Divisional Office, Udaipur to Divisional Office, Jodhpur. 12th and 13th February were holidays on account of Saturday and Sunday. Therefore, the

appeal was filed immediately on 14th February, 94. Meanwhile the period of limitation expired on 27th January 94. No particulars are given about the instructions sent by the Head Office to the Regional Office. The telex message was also sent only on 10th February, 1994 from the Regional Manager to the Divisional Office at Udaipur for filing appeal, only after the period of limitation which expired on 27th January, 1994.

7. Thus, there was a gross negligence on the part of the Insurance Company for not filing the appeals in time. For condoning the delay, no cause much less sufficient cause is shown. For the lethargy and fault of the Insurance Company, the claimants should not be made to suffer. The award came to be passed way back on 20th October, 1993. Today, we are in May, 1995. So far the claimants have not got the fruits of it. Though, they have succeeded way back in 1993. The judgment of the Supreme Court reported in *Dakshin Railway Employees Union, Trivandrum Division Vs. General Manager, Southern Railway and others*, referred to by the Insurance Company for condoning the delay has no application to the facts of these cases. The facts of that case were entirely different. Therefore, it is not discussed at a great length.

8. If the delay is to be condoned mechanically on the ground of administrative exigencies, then in almost all cases the Court has to condone the delay. That is never the intention of the Supreme Court while laying down the law for condoning the delay on the ground of administrative exigencies.

9. In view of the above discussions, I do not find any substance or merits in these applications for condoning the delay of 16 days in filing the above appeals against the impugned common judgment and award passed by the learned Tribunal on 20th October, 93.

10. Accordingly, all these applications are dismissed with costs.