

(2022) 12 J&K CK 0007
In the Jammu And Kashmir High Court
Case No : CONC No. 266 Of 2015

Pushpa Devi And Others

APPELLANT

Vs

M/S Jai Prakash Association Ltd. And Ors

RESPONDENT

Date of Decision : 05-12-2022

Acts Referred:

Citation : (2022) 12 J&K CK 0007

Hon'ble Judges : Rajnesh Oswal, J

Bench : Single Bench

Advocate : Gagan Kohli, Rupinder Singh, D. S. Chauhan

Final Decision : Disposed Of

Judgement

Rajnesh Oswal, J

1. This is an application seeking condonation of delay 413 days in filing the appeal against the judgment dated 22.08.2014 passed by the Commissioner, Employees Compensation Act (Assistant Labour Commissioner), Doda on the ground that the applicants are poor, illiterate and belong to a remote area of Doda District. The applicants were not informed about the remedy to be availed by them after dismissal of their claim petition and it was only when the applicants contacted their counsel, who advised them to file an appeal before this Court. It is stated that the deceased was the only earning source of the family, who died due to injuries caused in an accident.

2. Objections have been filed by the respondents. The respondent No. 1 has stated in the objections that the explanation tendered by the applicants in seeking the condonation of delay is concocted and not trustworthy. No premium can be given to the applicants for their lethargy and utter negligence in seeking the condonation of delay and further that the applicants have not accounted the delay with effect from 23.08.2014 till the date, the instant application was filed.

3. The respondent No. 2 has also filed the objections, in which it is stated that

the judgment was passed in presence of the counsel representing the applicants and it was after one year the appeal came to be filed by the applicants. It is further stated that the applicants have not disclosed any sufficient cause and the illiteracy, which has been sought to be projected as a ground for seeking condonation of delay, cannot be a ground for condoning the delay of 415 days in filing the appeal.

4. Mr. Gagan Kohli, learned counsel for the applicants submitted that the applicants are the residents of a remote village of Doda District besides being poor and illiterate and as such they could not file the appeal within the stipulated time.

5. Mr. Rupinder Singh and Mr. D. S. Chouhan, learned counsels for the respondents vehemently argued that the applicants have not demonstrated any sufficient cause for condonation of delay and as such, the delay cannot be condoned.

6. Heard and perused the record.

7. The respondents have not denied that the applicants are the residents of a remote village and further that they are illiterate. This is also not disputed by the respondents that the deceased was the only earning source of the family of the applicants. It is trite that while considering an application for condonation of delay, no straight jacket formula has been prescribed to come to the conclusion if the sufficient and good ground is made out or not. The courts while dealing with condonation of delay are to adopt a liberal, pragmatic, justice oriented and non pedantic approach. When the substantial justice is pitted against technical considerations, substantial justice must prevail. The Employee's Compensation Act is a social welfare legislation meant for the welfare of the employees and their families. The pedantic approach is not required to be adopted for the purpose of considering the disputes emerging out of the legislations meant for the welfare of the society.

8. In view of the above, the application seeking condonation of delay of 413 days is allowed and the delay in filing the appeal is condoned. Registry is directed to diarize and list the main appeal on 01.02.2023.

9. Disposed of.