

(1996) 11 DEL CK 0024
In the Delhi High Court

State of Haryana and Another		APPELLANT
	Vs	
Shimla Devi and Others		RESPONDENT

Date of Decision : 07-11-1996

Acts Referred:

Citation : (1997) 1 ACC 408

Hon'ble Judges : Usha Mehra, J

Bench : Single Bench

Judgement

Usha Mehra, J.—The State of Haryana and others have preferred this appeal against the order of the Motor Accident Claims Tribunal (in short Tribunal). The Tribunal gave the award on 17th January, 1995. The certified copy of the same was applied by the appellant on 1st February 1995. Copy was ready and made available to the appellants on 14th March, 1995. Whereas the appeal was filed on 3rd August, 1995, i.e. almost 65 days after the expiry of the period of limitation.

2. With this appeal, the appellant has filed an application u/s 5 of the Limitation Act seeking condensation of delay for the period of 65 days in preferring the accompanied appeal.

3. This application has been contested by the respondent inter alia, on the ground that neither the delay has been reasonably explained nor any details have been furnished in the application.

4. To appreciate the contentions of the parties, the brief facts of the case are that on 13th January, 1986, Karan Pal, who was traveling on two-wheeler scooter reached Outer Ring Road, Majnu Ka Tila when he was struck by a bus coming from behind driven rashly by respondent No. 1. He was under the employment of Haryana Roadways, present appellant. The bus hit the scooterist. That accident caused fatal injuries to the said Karan Pal, who later on died. His legal heirs preferred a claim under the Motor Vehicles Act (in short the Act) for a sum of Rs. 5 lakhs. Deceased Karan Pal was 29 years when he met with this accident. He was working as Clerk in Syndicate Bank. He was earning Rs. 1,000/- per month

as his salary. But by the cruel hands of destiny his life at the age of 29 years was snatched. The Tribunal after considering the evidence and the contentions of the parties made the award in favor of the claimants to the tune of Rs. 3,07,000/- on 17th June, 1995.

5. It is an admitted case of the parties that the appellant applied for the certified copy of the award on 1st February, 1995. The certified copy was ready for delivery on 14th March, 1995. The appellant received the same on that day itself. But appeal could not be preferred due to office procedural delay.

6. Mr. I.S. Goel appearing for the appellant contended that Section 168 of the Act imposes a condition on the Tribunal to supply the certified copy of the award within a period of 15 days. Since the Tribunal did not supply the copy which he was duty-bound to do, the appellant after waiting for 15 days applied for the same. Hence the period of 15 days has to be deducted from this delay of 65 days. If this period is deducted then the appellant has only to explain the delay of 51 days. Since the appellant is a State Government organisation, the delay was due to procedural lapses and, Therefore, should be condoned. In this regard, he has placed reliance on the decisions of the Supreme Court in the case of Collector, Land Acquisition, Anantnag and Another Vs. Mst. Katiji and Others, and State of U.P. Vs. Bahadur Singh and Others, . So far as the law laid down in these cases there cannot be any quarrel but unfortunately in the facts of this case the ratio of these authorities do not apply. These decisions are of no help to the appellant because if we read the application filed by the appellant u/s 5 of the Limitation Act seeking condensation of delay it can safely be said that the appellant has not furnished any details as to how this file was dealt with in its office. Who all handled this case at appellant's end, Except saying in para 3 of the application:

that the appeal could not be filed within the prescribed limitation period as the appellants had to consult several officers about reasonability of filing of the appeal and some of them were out of station on account of summer vacation.

7. In para 4 of the application for condensation of delay, the appellant stated:

that the delay of 51 days in filing the appeal is not at all intentional and the appellants shall not gain in any manner on account of the delay in filing the appeal.

8. No details have been given as to how much time it took in submitting the file after the certified copy was obtained on 14th March, 1995. When the decision was taken to file the appeal. Who took that decision. After taking the decision whom the file was sent. There is not even a whisper about the same. What the appellant was doing from 14th March, 1995 till 3rd August, 1995 has not been cared to explain. No one is asking the appellant to explain each day's delay but at the same time appellant has to explain the movement of the file on the basis of which this Court could form an opinion as to whether delay was due to procedural fault. Therefore, the decision which the appellant has relied has no

bearing on the merits of this case. In the above case reasonable Explanation was given with regard to procedural delay as a result Apex Court observed that while considering the delay by Government or its Departments too technical rules should not be insisted upon. But that is not the position in hand. As already observed above, the appellant has not even averred where the file got struck in the office and why? If the details had been furnished this Court could have determined that there was no intentional delay on the part of the appellant. But that has not been done. Therefore, in the absence of any data it cannot be inferred that sincere efforts were made by the appellant to file the appeal in time. Even in the application it has not been mentioned who all were on vacation with the result decision could not be taken. The mere fact that appellant has averred that there was no intentional delay, that by itself to my mind is not a sufficient ground to condone the delay nor the delay under the garb of office procedure can be condoned in the absence of any details of the movement of the file. When the decision was taken for the first time to file the appeal has also not been mentioned. On the basis of the facts mentioned in the application, it cannot be construed that the delay was on account of procedural faults due to red tapism. In view of my above discussion, I hold that appellant has miserably failed to give reasonable Explanation for the delay. I find no ground to condone the delay. The application is accordingly dismissed.

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Since the appeal is time-barred, the same is accordingly dismissed.