
(1996) 11 AHC CK 0103
In the Allahabad High Court
Case No : First Appeal No. 611 of 1996

State of U.P.

APPELLANT

Vs

Bhori Devi

RESPONDENT

Date of Decision : 30-11-1996

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (1996) 11 AHC CK 0103

Hon'ble Judges : B.M.Lal, J and B.K.Sharma, J

Final Decision : Dismissed

Judgement

1. Shri P.K. Bisaria is heard on the question of condonation of delay in filing the appeal.
2. Admittedly the appeal has been filed beyond 160 days of the period of limitation. While explaining the delay an application under Section 5 of the Limitation Act has been filed.
3. It is contended that the Motor Accident Claims Tribunal passed an Award on 8296 against the appellantState and an application for certified copy of the Award was made on 13296. The certified copy of the Award was delivered on 15396. However, the appeal is filed on 291196 and that is why the appeal become barred by limitation i.e. beyond time by 160 days. Since the certified copy was delivered on 15396 the appeal could have been filed on 22696 which was the last date of limitation.
4. The explanation furnished for such a long delay is that official correspondence took time, but nothing has been brought on record or suggested the action taken by the officers of the appellant for taking necessary steps to file and prosecute the appeal diligently because each day"s delay requires to be explained showing sufficient cause and good cause which has prevented the appellant to prefer the appeal well within the period of limitation. Merely making omnibus statements will not satisfy the requirements for condoning the delay. No doubt in State cases

collective responsibility of the officers is there but that itself will be no ground to condone the delay. Even the collective responsibility is required to be explained with a degree of reasonableness. The provisions of the Limitation Act do not extend any immunity relaxing the period of limitation in favour of the State Government. On the other hand the State Government is also standing on the same footing like the ordinary litigants.

5. Under the garb of collective responsibility of public servants take undue advantage by moving leisurely and in careless manner even in such matters. It is high time that the public servants should be held personally responsible in such matters where State exchequer suffers loss on account of their inaction in the discharge of their function as public servants. Recently in Lucknow Development Authority v. M.K. Gupta, (1994) 1 SCC 243 it is ruled that the public officers are accountable for their negligence and misfeasance if they commit negligence in the discharge of their official duties. The concept of State immunity is diluted and thus the public servants may be liable in the damages for deliberate or injurious wrong doing. The inaction on the part of the public servants in the instant case by behaving in callous manner amounts to malicious abuse of power. In this regard it will not be out of place to state that with the change in socioeconomic outlook in our democratic set up the public servants are expected more attentive to their onerous duties which they must discharge diligently. If a public servant is found abusing his office either by an act of omission or commission as a consequence of which there is a loss to the public exchequer, action may be taken against such guilty public servants and therefore no public servant can arrogate to himself the power to act in a manner he likes causing loss to the public exchequer. In a democratic setup the function of the government is to extend all possible facilities to its citizens and that is why the State is known as a welfare State which provides a larger number of benefits to the citizens and, therefore, it is expected of the Government servants to discharge their official functions in a fair and just manner. The explanation furnished that simply after 22696 correspondence took place for obtaining sanction to file the appeal is not sufficient and well reasoned explanation warranting condonation of the delay.

6. Therefore, under the facts and circumstances narrated above, we direct the department concerned to initiate enquiry into the matter so as to find out guilty officer or officers on account of whose inaction the delay of 160 days has been caused in filing the appeal so that the accountability of the officer or officers concerned may be fixed and necessary departmental action may be taken against him or them. We may observe that this is not the first such case but in almost all the Government cases the appeals are being filed after the lapse of limitation period.

7. Since no sufficient ground or good ground has been made out for condoning the delay, therefore, the application for condoning the delay is rejected. Consequently, the appeal also stands dismissed being barred by limitation.

8. The statutory deposit made under the proviso of Section 173 of the Motor Vehicles Act i.e. Rs. 25,000 be now remitted to the Tribunal for being adjusted towards the compensation and for being paid to the claimants.

9. Let a copy of this order be sent to the Chief Secretary, State of U.P. Lucknow for holding an enquiry and taking necessary action against the erring officer/officers.