
(2012) 07 DEL CK 0076
In the Delhi High Court
Case No : MAC App. No.713 of 2012

Union of India

APPELLANT

Vs

Mahinder Kumari and Others

RESPONDENT

Date of Decision : 13-07-2012

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (2012) 07 DEL CK 0076

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Advocate : Anuj Aggarwal, for the Appellant;

Judgement

G.P. Mittal, J.

CM. APPL. No.11651/2012

Exemption allowed, subject to all just exceptions. The application stands disposed of.

CM. APPL. No.11647/2012 (delay in filing the Appeal) & CM. APPL No. 11650/2012 (delay in refilling the Appeal) & MAC APP. 713/2012

1. The Appellant Union of India impugns a judgment dated 15.12.2010 passed by the Motor Accident Claims Tribunal(the Claims Tribunal) whereby a compensation of Rs.6,42,265/- was awarded in favour of the Respondents No.1 to 4 for the death of Hari Ram who died in a motor vehicle accident which occurred on 21.06.2005. For seven years, the Respondents No.1 to 4 are unable to get the compensation because of the obstacles placed by the officials of the Appellant i.e. Union of India. The Appellant does not want to pay the compensation even after one year and seven months of passing of the impugned judgment and has come up with two Applications for condonation of delay. CM. APPL No.11647/2012 is the Application for condonation of delay of 171 days in filing the Appeal and strangely CM. APPL No.11650/2012 is the Application for

condonation of delay of 272 days in refiling the Appeal. Paras 3 to 15 of CM. 11647/2012 are extracted hereunder which, according to the Appellant, discloses sufficient cause for condonation of delay:

3. That the Appellant department only came to know of the impugned Award dated 15.12.2010 in the month of January, 2011 when a copy of the same was received in the office of the Appellant Department, New Delhi. Immediately on receipt the department contacted the Government Counsel/Pleader representing their interest before the Ld. Tribunal, for seeking his opinion in regard to the impugned Award passed by the Ld. Tribunal. 4. That thereafter the Appellant informed the higher authorities of the impugned Award dated 15.12.2010 so passed by the Ld. Tribunal.

5. That the legal opinion in regard to the above captioned Award was received from the Government counsel on 12.01.2011.

6. That thereafter the Appellant department contacted the Legal Adviser (Defence) Department of Legal Affairs in Ministry of Law & Justice for seeking his comments and recommendation in regard to the impugned Award.

7. That on 25.3.2011 the Legal Adviser (Defence) forwarded his opinion to the Appellant Department thereby advising them to file the accompanying appeal before the Hon"ble High Court.

8. That accordingly the higher authorities vide signal dated 29.03.2011 directed the unit concerned to take immediate steps for filing the accompanying appeal.

9. That thereafter the Appellant wrote a letter to the Ministry of Law and Justice for appointing new Government Counsel and accordingly in the month of April the Litigation Section appointed a new counsel for filing the present Appeal before the Hon"ble High Court of Delhi.

10. That on 14.05.2011 the Appellant department met the newly appointed counsel and brief him about the matter and handed over the above mentioned documents and annexure to him for the purpose of preparation of the accompanying Appeal for set aside of the impugned award.

11. That on 30.05.2011, the Government Counsel requested the Appellant Department to forward the certified copy of the complete tribunal record.

12. That only on 04.07.2011 the department could forward the certify copy of the complete tribunal record and other relevant documents to the counsel.

13. That the counsel after receiving the brief drafted the present appeal and sent it for vetting and signature to the concerned department on 02.08.2011.

The duly signed Appeal was received by the counsel on 26.08.2011 and accordingly the same was filed in the High Court on 02.09.2011.

14. That it is humbly submitted that the steps to file the accompanying Appeal were taken immediately upon gaining knowledge with regard to the impugned

award dated 15.12.2010 passed by the Ld. Tribunal.

15. That despite the diligence of the Appellant there has been a delay of 171 days in filing the accompanying Petition.

2. The relevant paragraphs of the Application extracted above reveal that the Appellant has just given certain dates as to when a particular thing was done by a particular officer. There is not even a whisper as to why it took so much time with each of the officer/official. This is not the end of the matter. When the Registry of this Court objected to the filing of the Appeal without even any application for condonation of delay and the Appeal was returned for refiling, it took almost nine months to the Appellant to refile the Appeal. Paras 10 and 11 of the Application for condonation of delay in refiling reveal that it took three months and seventeen days in vetting and signing the Appeal by the concerned officer of the Appellant.

3. The learned counsel for the Appellant places reliance on *State of Nagaland Vs. Lipok AO and Others*, to contend that some latitude has to be given when the litigant is a Government Department as the officers/Government Agencies move at a slow pace. The observations of the Supreme Court are extracted hereunder:

The government decisions are taken by officers/agencies proverbially at a slow pace and encumbered process of pushing the files from table to table and keeping it on the table for considerable time causing delay - international or otherwise- is a routine. Considerable delay of procedural red tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is a public interest. The expression "sufficient cause" should, therefore, be considered with pragmatism in a justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay...

4. There is no dispute that some latitude may be given considering that it takes time in pushing the file from one desk to another, yet some explanation must be given by the Government Agency for the delay. As stated above in the Application for condonation of delay in filing the Appeal and in the Application for condonation of delay in refiling the Appeal, the Appellant has simply given the dates when a particular fact happened or was done.

5. The Courts normally do not throw away the meritorious lis on hypertechnical grounds. The primary function of a Court is to adjudicate the dispute between the parties and to advance substantial justice. The time-limit fixed for approaching the Court in different situations is not because on the expiry of such time a bad cause would transform into a good cause. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal

injury so suffered. The law of limitation is thus founded on public policy. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time. Condonation of delay is a matter of discretion of the Court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit.

6. It may be noticed that the Motor Vehicles Act was amended in 1994 by inserting Section 163-A in the Act by virtue of which the compensation was made payable by the owner or the insurer of the vehicle involved in the accident without proving negligence against the driver. The object of insertion of Section 163-A was to provide a speedy remedy to a hapless victim or legal representatives of the deceased in a motor vehicle accident. The Appellant's officials were totally unconcerned about the plight of the legal heirs of the deceased Hari Ram. By the instant Appeal, the Appellant challenges the finding on negligence and that too by leading additional evidence.

7. The Appellant has failed to show sufficient cause for condonation of delay. On the other hand, it is apparent that there is gross negligence in filing and refiling the Appeal after a period of 443 days of expiry of limitation. I do not find sufficient cause for condonation of delay. The Applications are dismissed.

8. Consequently, MAC APP. No.713/2012 also stands dismissed. The Applications filed with the Appeal stand disposed of.