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MA-1983-2014

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE RATNESH CHANDRA SINGH BISEN

ON THE 3rd OF AUGUST, 2026MISC. APPEAL No. 1983 of 2014*VISHNU RAJAK**Versus**BIRJESH KUMAR AND OTHERS*

.....
Appearance:

*Shri Arun Singh - Advocate for appellant.**Shri Dharmendra Soni - Advocate for respondent No.1 and 2.*
.....

ORDER

Heard on I.A. No.12178/2014, an application under Section 5 of the Limitation Act seeking condonation of delay of 1029 days in filing the present appeal.

2. Learned counsel for the appellant submits that the appellant was a minor on the date of the accident as well as on the date of the award passed by the learned Motor Accident Claims Tribunal. It is contended that after attaining majority on 01.04.2014, the appellant came to know that no appeal had been preferred against the award and, thereafter, he immediately approached the present counsel and filed the appeal. It is, therefore, prayed that the delay of 1029 days be condoned.

3. Learned counsel appearing for the respondents submits that he has no objection if the delay is condoned.

4. Heard the counsel appearing for the parties and perused the record.

5. Merely because the respondents do not oppose the application for



condonation of delay, this Court is not bound to condone the delay. Section 3 of the Limitation Act casts a statutory duty upon the Court to examine whether the appeal has been filed within the prescribed period of limitation and, if it is beyond limitation, whether sufficient cause has been shown so as to invoke the discretionary jurisdiction under Section 5 of the Act.

6. The Hon'ble Supreme Court has further reiterated in para 12 of the judgment passed in *Pathapati Subba Reddy (Dead) through Legal Representatives and Others v. Special Deputy Collector (LA), (2024) 12 SCC 336*, which are quoted as under:-

"12. In view of the above provision, the appeal which is preferred after the expiry of the limitation is liable to be dismissed. The use of the word 'shall' in the aforesaid provision connotes that the dismissal is mandatory subject to the exceptions. Section 3 of the Act is peremptory and had to be given effect to even though no objection regarding limitation is taken by the other side or referred to in the pleadings. In other words, it casts an obligation upon the court to dismiss an appeal which is presented beyond limitation. This is the general law of limitation. The exceptions are carved out under Sections 4 to 24 (inclusive) of the Limitation Act but we are concerned only with the exception contained in Section 5 which empowers the courts to admit an appeal even if it is preferred after the prescribed



period provided the proposed appellant gives 'sufficient cause' for not preferring the appeal within the period prescribed. In other words, the courts are conferred with discretionary powers to admit an appeal even after the expiry of the prescribed period provided the proposed appellant is able to establish 'sufficient cause' for not filing it within time. The said power to condone the delay or to admit the appeal preferred after the expiry of time is discretionary in nature and may not be exercised even if sufficient cause is shown based upon host of other factors such as negligence, failure to exercise due diligence etc."

7. The grounds pleaded in the application for condonation of delay are that the award dated 27.07.2011 was passed when the appellant was a minor. The claim petition before the Tribunal had been prosecuted through his father as natural guardian. It is further pleaded that after attaining majority on 01.04.2014, the appellant enquired from his previous counsel on 08.07.2014 and came to know that no appeal had been filed. Thereafter, he engaged the present counsel, obtained the certified copy of the award, completed the necessary formalities, arranged the requisite expenses and filed the present appeal. According to the appellant, the delay is bona fide and occurred solely because of his minority.

8. Having considered the submissions and the averments made in the application, this Court is of the view that no sufficient cause has been



made out for condonation of the inordinate delay.

9. It is not in dispute that the claim petition itself was instituted before the learned Tribunal in the year 2009 through the appellant's father, who acted as his natural guardian. The learned Tribunal awarded compensation of Rs.2,05,000/- by award dated 27.07.2011. Thus, throughout the proceedings before the Tribunal, the appellant was duly represented by his natural guardian. The appellant, therefore, cannot contend that because he was a minor, he was incapable of pursuing the remedy of appeal. The legal remedy was available to and could have been pursued by his father, who was already representing his interest before the Tribunal.

10. Section 9 of the Limitation Act clearly provides that once time has begun to run, no subsequent disability or inability can stop it. The limitation for filing an appeal commenced from the date of the award. The subsequent plea of minority cannot arrest the running of limitation where the minor was already represented by a competent natural guardian in the original proceedings.

11. The aforesaid legal position stands authoritatively settled by the Hon'ble Supreme Court in *New India Assurance Co. Ltd. v. Gopu and Another*, 2025 SCC OnLine SC 908. In paragraphs 11 to 13 of the said judgment, the Hon'ble Supreme Court has categorically held as under:-

"11. In this context, we refer to the decision of the Full Bench of the High Court of Allahabad in Bechi v. Ahsan-Ullah Khan² [ILR (1890) 12 All 461 (FB)] and make the



following extract from Mahmood, J's opinion which was concurred by all the other three Hon'ble Judges:

“What effect the minority of some of the defendants has upon the case is the subject of the second question as enunciated by me. And upon this point, I am of the opinion that the defendants-respondents have no case. It is true that some of them are minors, but they are duly represented by guardians whose interests are the same as theirs, and the fact of minority could not prevent the guardians from showing due diligence on behalf of the minors. It is noticeable that Section 7 of the Limitation Act, in extending the period of limitation on account of minority, refers only to suits and applications and makes no mention of 1 (2016) 14 SCC 314 2 1890 SCC OnLine All 1 appeals, and its provisions are, therefore, unavailable to the minor defendants.”

Section 7 referred to in the above extract is from the: Limitation Act (XV of 1877) and the provisions we are concerned with also is similarly worded, without any mention of appeals.

12. In Musthafali v. Subair³, the High Court of Kerala considering the word ‘suit’ used in Section 6 and defined in the Limitation Act held that the proceedings under Section 110A of the Motor Vehicles Act are in the nature of a suit under the Code of Civil Procedure; since the lis is instituted



by presentation of an application, which is more or less like a plaint. The Division Bench of the High Court relied on a Constitution Bench decision of this Court in H.H. Maharana Sahib Shri Bhagwat Singh Bahadur of Udaipur v. State of Rajasthan⁴ which held

“A proceeding which does not commence with a plaint or petition in the nature of plaint, or where the claimant is not in respect of dispute ordinarily triable in a civil court, would prima facie not be regarded as falling within Section 86 of Code of Civil Procedure..” [sic paragraph 5].

Impliedly, the exemption by reason of a disability applies to the institution of an original proceeding or an application for execution of a final decree, which will not apply in the case of an appeal. Appeal is a continuation of the original proceeding and if, as is the case here, when the original proceeding was instituted at the time of minority, why should there be a subsequent disability inferred, when the natural guardian, the father, who instituted the appeal was alive and did not suffer from any disability himself, 3 1991 SCC OnLine Ker 269 4 1963 SCC OnLine SC 119 even when the appeal period stood expired. The above observation of ours may not be taken as Section 6 being applicable to appeals, which the legislature did not intend.

13. In the present case, the father as the natural guardian



has instituted the original proceeding before the Motor Accidents Claims Tribunal, filed for compensation on the death of his wife in a motor vehicle accident, with both the minor children in the party array of claimants, represented by the father, the natural guardian. The father did not choose to file an appeal from the award. In fact, as per Annexure P-4, it is seen that the Insurance Company had filed an appeal from the award of the Tribunal on the ground of the policy not covering the risk of a pillion rider, which stood dismissed by a Division Bench of the High Court, based on a clarification issued by the Insurance Regulatory Development Authority that a package policy will also cover the risk of a pillion rider. In the said appeal the father and the two minor children were made parties, and they appeared through counsel. The father did not choose to file a cross appeal seeking enhancement of the claim amounts. The father who is the natural guardian took a conscious decision not to file an appeal and was satisfied with the award. The statements made in the application for condonation of delay, that; the father had married again; the children were abandoned; who were in the care of their grandparents are not substantiated. We make this observation fully conscious of the fact that any substantiation would also have not enabled the filing of an appeal under Section 6, the exemption under which, based on a disability,



is confined to suits and applications for execution of a decree.

The intention of the legislature being very clear, it is not for the courts to extend the period of limitation on misplaced sympathies. Even Section 5 has no application in the facts of the case, insofar as the long delay occasioned, especially when in the original proceedings, the children were represented by the father, the natural guardian."

12. In the present case, the only explanation offered by the appellant is that he was a minor till 01.04.2014. However, the record unmistakably reveals that the appellant was throughout represented by his father, the natural guardian, who had instituted and prosecuted the claim petition before the Tribunal. No explanation whatsoever has been furnished as to why the natural guardian did not prefer an appeal within the prescribed period. The application is completely silent regarding any legal disability or other circumstance preventing the natural guardian from filing the appeal. Therefore, the explanation furnished does not constitute "sufficient cause" within the meaning of Section 5 of the Limitation Act.

13. The law of limitation is founded upon public policy and is intended to ensure certainty and finality in litigation. Once the prescribed period has expired, a valuable right accrues in favour of the successful party. Such right cannot be defeated unless the applicant satisfactorily establishes sufficient cause for the delay. In the facts of the present case, this Court finds no sufficient or legally acceptable ground to exercise its discretionary jurisdiction under Section 5 of the



Limitation Act.

14. Consequently, I.A. No.12178/2014, seeking condonation of delay of 1029 days, is **dismissed**.

15. As the application for condonation of delay stands dismissed, the appeal, being barred by limitation, is also **dismissed**.

(RATNESH CHANDRA SINGH BISEN)
JUDGE

sp/-