

THE HON'BLE SRI JUSTICE BATTU DEVANAND**M.A.C.M.A.Nos.32 & 33 of 2022****COMMON JUDGMENT:**

M.A.C.M.A.Nos.32 and 33 of 2022 have been filed by the appellant/A.P.S.R.T.C. seeking to set aside the order and decree passed in M.V.O.P.Nos.57 and 71 of 2017 on the file of the learned Chairman, Motor Vehicle Accidents Claims Tribunal-cum-III Additional District Judge, Bhimavaram, dated 30.7.2019.

2) Along with the appeals, the appellant filed I.A.No.1 of 2022 in both the appeals seeking to condone the delay of 730 days and 873 days respectively in preferring the appeals.

3) In I.A.No.1 of 2022 in M.A.C.M.A.No.32 of 2022, the petitioner is A.P.S.R.T.C./appellant and the respondent Nos.1 and 2 are the petitioners/claimants in M.V.O.P.No.57 of 2017.

4) In I.A.No.1 of 2022 in M.A.C.M.A.No.33 of 2022, the petitioner is A.P.S.R.T.C./appellant and the respondent Nos.1 to 3 are the petitioners/claimants in M.V.O.P.No.71 of 2017. The parties hereinafter will be referred to as arrayed in the MVOP.

4) Heard the learned counsel for the petitioner.
Perused the material available on record.

5) **Brief facts of the case are that:**

i) In the first case, the claimants filed M.V.O.P.No.57 of 2017 on the file of the learned Chairman, Motor Vehicle Accidents Claims Tribunal-cum-III Additional District Judge, Bhimavaram, claiming compensation of Rs.7,00,000/- for the death of the deceased i.e., Nilapala Baburao, who died in a motor accident that took place on 19.10.2016. The 1st claimant is the wife and the 2nd claimant is the son of the deceased.

ii) In the second case, the claimants filed M.V.O.P.No.71 of 2017 on the file of the learned Chairman, Motor Vehicle Accidents Claims Tribunal-cum-III Additional District Judge, Bhimavaram, claiming compensation of Rs.4,00,000/- for the death of the deceased i.e., Nilapala Baburao, who died in a motor accident that took place on 19.10.2016. The 1st claimant is the second wife and the 2nd and 3rd claimants are the daughters of the deceased.

iii) The Tribunal, after hearing both sides and upon appreciation of the oral and documentary evidence available on record, was pleased to allow the claim applications in part

awarding compensation of Rs.7,99,000/- along with interest @ 9% per annum from the date of petition to till the date of payment with proportionate costs.

iv) The Tribunal held that respondent No.2 is directed to deposit the amount of compensation with proportionate costs and subsequent interest within two months from the date of the order to the credit of the matter. The Tribunal held that from the half share of amount of Rs.3,99,500/-, an amount of Rs.2,50,000/- with entire proportionate costs + proportionate subsequent interest thereon, including half share in the amount of loss of consortium shall be apportioned to the 1st petitioner in O.P.No.57 of 2017 and the same shall be released to her without depositing the same or part of the same in any Bank. The Tribunal held that balance amount of Rs.1,49,500/- with proportionate interest thereon shall be apportioned to 2nd petitioner in O.P.No.57 of 2017 and the same shall be released to him without depositing the same or part of the same in any Bank. The Tribunal further held that from the half share of amount of Rs.3,99,500/-, an amount of Rs.2,00,000/- with entire proportionate costs + proportionate subsequent interest thereon, including half share in the amount of loss of consortium shall be apportioned to 1st petitioner in O.P.No.71 of 2017 and the same shall be

released to her without depositing the same or part of the same in any Bank. The Tribunal further held that from balance amount of Rs.1,99,500/-, an amount of Rs.1,00,000/- with proportionate interest thereon shall be apportioned to 2nd petitioner in O.P.No.71 of 2017 and the same shall be released to her without depositing the same or part of the same in any Bank. The Tribunal further held that the balance amount of Rs.99,500/- with proportionate interest thereon shall be apportioned to 3rd petitioner in O.P.No.71/2017 and the same shall be released to her without depositing the same or part of the same in any Bank and that the fee of the Advocate for petitioners is fixed at Rs.10,000/-, which shall be divided equally in favour of petitioners in both the claim petitions.

6) Against the decree and award, dated 30.7.2019 in M.V.O.P.Nos.57 and 71 of 2017 passed by the Tribunal, the A.P.S.R.T.C/appellant, who is the 2nd respondent therein, filed the present appeals. Along with the appeals, the appellant filed I.A.No.1 of 2022 in both the appeals seeking to condone the delay of 730 days and 873 days respectively in filing the appeals.

7) In the affidavits filed along with I.A.No.1 of 2022 in both the appeals, the reasons stated by the appellant at para No.6 for the delay occurred in filing the appeals is extracted as under:-

Para No.6 in I.A.No.1 of 2022 in M.A.C.M.A.No.32 of 2022: "I further humbly submit that after disposal of the claim petition filed by respondents 1 and 2 herein, our Panel Advocate informed us that the matter was allowed above the claim amount. Later, our counsel applied for certified copies and after going through the order and decree informed us that we have a good case and advised us to file an appeal. The certified copies were made ready as on 30.09.2019. Due to Covid-19 there is country wide lock down. Since there are two claim petitions arising out of the same accident, it took some time for the Management to take a decision for filing appeal. Thus there is a delay in filing the appeal which is neither willful nor wanton. A separate petition is filed to condone the delay in filing the appeal."

Para No.6 in I.A.No.1 of 2022 in M.A.C.M.A.No.33 of 2022: "I further humbly submit that after disposal of the claim petition filed by respondents 1 to 3 herein, our Panel Advocate informed us that the matter was allowed. Later, our counsel applied for certified copies and after going through the order and decree informed us that we have a good case and advised us to file an appeal. By the time, the Management took a decision to file an appeal, due to Covid-19 there is country wide lock down. In the meanwhile, there was change of standing counsels. Due to the same, it took

some time for us to hand over the files to him. Thus there is a delay which is neither willful nor wanton. If the delay is not condoned, we will be put to irreparable loss and injury. A separate petition to condone the delay is filed. Thus the present appeal is filed."

8) Upon perusal of the above averments, in the considered opinion of the Court, the said affidavits are filed in a routine manner and the reasons stated for the delay are vague. It is clear that the appellant failed to show sufficient cause to condone the delay of 730 and 873 days in filing the appeals.

9) It is to be noted that the Tribunal, while passing the decree and award, dated 30.7.2019, directed the 2nd respondent therein (i.e.) A.P.S.R.T.C./ appellant to deposit the award amount along with interest and costs within two months. But, till date the said amount is not deposited in the Tribunal below.

10) Upon perusal of the certified copy of the decree and award, dated 30.7.2019 in M.V.O.P.Nos.57 and 71 of 2017 issued by the Tribunal, it appears that the petitioner made application for certified copy on 01.08.2019 and 17.4.2021, respectively. The Tribunal delivered the certified

copies on 30.09.2019 and 30.4.2021. The present appeals are filed on 29.12.2021. As such, it is clear that from the date of delivering the certified copy of the decree and award (i.e.) on 30.09.2019 in M.V.O.P.No.57 of 2017, the petitioner did not choose to file appeal till 29.12.2021 (i.e.,) for a period of more than two years. In M.V.O.P.No.71 of 2017, application for certified copy is not filed for more than 20 months. After delivering order on 30.4.2021 also, appeal is not filed for seven months. As seen from these factual aspects, there is a delay of 730 and 873 days in filing the appeals in the High Court against the decree and award of the Tribunal below.

11) As per admitted facts of the case, the accident occurred on 19.10.2016 wherein the husband of the 1st claimant in both the cases and father of the 2nd claimant and father of 2nd and 3rd claimants in both the cases died. The deceased was aged about 60 years at the time of accident. He is the sole breadwinner of the family. The claim applications were filed before the Tribunal below in the year 2017. The Tribunal passed award on 30.7.2019. Though the Tribunal awarded compensation on appreciation of the entire oral and documentary evidence available on record and after hearing both sides, the claimants could not get the

compensation amount till date. Though the Tribunal directed the respondent No.2 therein to deposit the awarded compensation amount into the Court within two months from the date of award, it was not deposited till date. In view of the same, the claimants would have suffered irreparable loss and hardships due to sudden demise of the breadwinner of the family and there might be no support to sustain themselves. They did not get any benefit out of the decree and award passed by the Tribunal for all these years, due to action of the A.P.S.R.T.C. in not depositing the award amount within the time stipulated as directed by the Tribunal below.

12) The Motor Vehicles Act enacted to provide for expeditious relief to the victims of accident. The intention of the Parliament to enact the Motor Vehicles Act is to provide just and reasonable compensation for the victims and to protect their substantive rights. The loss or damage caused to the victims and their families has to be compensated within a reasonable time to entitle the victims to come out of the grief.

13) In the present case, the breadwinner of the family died in a motor vehicle accident on 19.10.2016. But, till date even after 5 years, the claimants/victims did not get any compensation from the wrongdoers, who are responsible for

the accident and who are liable to pay the compensation as determined by the Tribunal.

14) The reasons mentioned in the affidavit which were already extracted as above, clearly establish that there was abnormal delay in filing appeals and there is no proper explanation, as to why such huge delay had occurred. Though it was stated by the petitioner that the delay was neither willful nor wanton, but due to the reasons stated in the affidavits, the fact remains that due to Covid and administrative reasons, the A.P.S.R.T.C. could not prefer appeals in time by following due procedure as provided under law. Filing these appeals with a delay of 730 and 873 days without showing any sufficient cause is nothing but abusing the process of law and it will affect the interest of the claimants who are not in a position to get single rupee from the A.P.S.R.T.C./appellant even after 2½ years after passing order in favour of the claimants by the Tribunal on 30.7.2019. In the considered opinion of this Court, there is no sufficient cause shown by the petitioner/appellant to condone the delay of 730 and 873 days in filing appeals and as such I.A.No.1 of 2022 in both the appeals is liable to be dismissed.

15) The view of this Court is fortified by the law laid down by the Hon'ble Apex Court in the following rulings:

16) In the case of **Balwant Singh (died) v. Jagdish Singh**¹ wherein the Hon'ble Apex Court held as hereunder:

"25. We may state that even if the term "sufficient cause" has to receive liberal construction, it must squarely fall within the concept of reasonable time and proper conduct of the party concerned. The purpose of introducing liberal construction normally is to introduce the concept of "reasonableness" as it is understood in its general connotation.

26. The law of limitation is a substantive law and has definite consequences on the right and obligation of a party to arise. These principles should be adhered to and applied appropriately depending on the facts and circumstances of a given case. Once a valuable right has accrued in favour of one party as a result of the failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or inaction of that party. Justice must be done to both parties equally. Then alone the ends of justice can be achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law as a result of his acting vigilantly."

17) In the case of **Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai**² wherein the Hon'ble Apex Court held as hereunder:

¹ (2010) 8 SCC 685; (2010) 3 SCC (Civ) 537

"23. What needs to be emphasised is that even though a liberal and justice oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost.

24. What colour the expression "sufficient cause" would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay."

18) In the case of **Brahampal @ Sammay and another vs. National Insurance Company**³ wherein the Hon'ble Apex Court held as hereunder:

The Court in the abovementioned cases, highlighted upon the importance introducing the concept of "reasonableness" while giving the clause "sufficient cause" a liberal interpretation. In furtherance of the same, this Court has cautioned regarding the necessity of distinguishing cases where delay is of few days, as against the cases where the delay is inordinate as it

² (2012) 5 SCC 157; (2012) 3 SCC (Civ) 24

³ (2021) 6 Supreme Court Cases 512

might accrue to the prejudice of the rights of the other party. In such cases, where there exists inordinate delay and the same is attributable to the party's inaction and negligence, the Courts have to take a strict approach so as to protect the substantial rights of the parties.

Undoubtedly, the statute has granted the Courts with discretionary powers to condone the delay, however at the same time it also places an obligation upon the party to justify that he was prevented from abiding by the same due to the existence of "sufficient cause". Although there exists no strait jacket formula for the Courts to condone delay, but the Courts must not only take into consideration the entire facts and circumstances of case but also the conduct of the parties. The concept of reasonableness dictates that, the Courts even while taking a liberal approach must weigh in the rights and obligations of both the parties. When a right has accrued in favour of one party due to gross negligence and lackadaisical attitude of the other, this Court shall refrain from exercising the aforesaid discretionary relief.

19) In the case of **Office of Chief Post Master General and others vs. Living Media India Ltd. and another**⁴ the Hon'ble Supreme Court while dealing with a petition filed for condonation of delay of 427 days after considering various decisions of the Hon'ble Supreme Court, observed as extracted hereunder:

12. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved

⁴ 2012 LawSuit (SC) 124

including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

13. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law

shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.

20) In another case of **The State of Madhya Pradesh and others vs. Bherulal**⁵, the Hon'ble Supreme Court of India while dealing with an application to condone the delay of 663 days, came down heavily, while dismissing the said application in as extracted hereunder:

6. We are also of the view that the aforesaid approach is being adopted in what we have categorized earlier as "certificate cases". The object appears to be to obtain a certificate of dismissal from the Supreme Court to put a quietus to the issue and thus, say that nothing could be done because the highest Court has dismissed the appeal. It is to complete this formality and save the skin of officers who may be at default that such a process is followed. We have on earlier occasions also strongly deprecated such a practice and process. There seems to be no improvement. The purpose of coming to this Court is not to obtain such certificates and if the Government suffers losses, it is time when the concerned officer responsible for the same bears the consequences. The irony is that in none of the cases any action is taken

⁵ 2020 SCC OnLine SC 849

against the officers, who sit on the files and do nothing. It is presumed that this Court will condone the delay and even in making submissions, straight away counsels appear to address on merits without referring even to the aspect of limitation as happened in this case till we pointed out to the counsel that he must first address us on the question of limitation.

7. We are thus, constrained to send a signal and we propose to do in all matters today, where there are such inordinate delays that the Government or State authorities coming before us must pay for wastage of judicial time which has its own value. Such costs can be recovered from the officers responsible.

8. Looking to the period of delay and the casual manner in which the application has been worded, we consider appropriate to impose costs on the petitioner- State of Rs.25,000/- (Rupees twenty five thousand) to be deposited with the Mediation and Conciliation Project Committee. The amount be deposited in four weeks. The amount be recovered from the officers responsible for the delay in filing the special leave petition and a certificate of recovery of the said amount be also filed in this Court within the said period of time.

21) The Hon'ble Supreme Court in the case of **Postmaster General and others vs. Living Media India Ltd. and another**⁶ wherein it is held as hereunder:

"28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross

⁶ 1992 (3) SCC 563

negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

22) The Hon'ble Supreme Court of India while dealing with an application to condone the delay of 916 days caused in preferring an appeal in case of **University of Delhi vs. Union of India (UOI) and others**⁷ held as hereunder:

⁷ 2020(1) ALT 230

20. From a consideration of the view taken by this Court through the decisions cited supra the position is clear that, by and large, a liberal approach is to be taken in the matter of condonation of delay. The consideration for condonation of delay would not depend on the status of the party namely the Government or the public bodies so as to apply a different yardstick but the ultimate consideration should be to render even handed justice to the parties. Even in such case the condonation of long delay should not be automatic since the accrued right or the adverse consequence to the opposite party is also to be kept in perspective. In that background while considering condonation of delay, the routine explanation would not be enough but it should be in the nature of indicating "sufficient cause" to justify the delay which will depend on the backdrop of each case and will have to be weighed carefully by the Courts based on the fact situation. In the case of Katiji (Supra) the entire conspectus relating to condonation of delay has been kept in focus. However, what cannot also be lost sight is that the consideration therein was in the background of dismissal of the application seeking condonation of delay in a case where there was delay of four days pitted against the consideration that was required to be made on merits regarding the upward revision of compensation amounting to 800 per cent.

21. As against the same, the delay in the instant facts in filing the LPA is 916 days and as such the consideration to condone can be made only if there is reasonable explanation and the condonation cannot be merely because the appellant is public body. The entire explanation noticed above, depicts the casual approach

unmindful of the law of limitation despite being aware of the position of law.

23) By following the proposition of law of the Hon'ble Apex Court, this High Court in **Tahsildar, Mangalagiri Mandal vs. Mangalagiri Pattana Padmasali Bahutama Sangham, Rep. by its President, Mandru Venkateswara Rao and another⁸**, dismissed the application filed seeking condonation of delay of 1016 days holding that there is no sufficient cause for the condonation of such a huge delay.

24) This High Court in the case of **M/s. Shriram General Insurance Company Limited vs. Gubbala Harish and others in M.A.C.M.A.No.440 of 2021** dismissed the application filed seeking condonation of delay of 1977 days holding that there is no sufficient cause for the condonation of such a huge delay.

25) This High Court in the case of **M/s. Shriram General Insurance Company Limited vs. Papaganti Anusha and others in M.A.C.M.A.No.445 of 2021**, dismissed the application filed seeking condonation of delay of 652 days holding that there is no sufficient cause for the condonation of such a huge delay.

⁸ (2021) 2 ALD 57

26) This High Court in the case of **The Oriental Insurance Company Limited vs. Magapu Venkata Lakshmi and others in M.A.C.M.A.No.4 of 2022**, dismissed the application filed seeking condonation of delay of 867 days holding that there is no sufficient cause for the condonation of such a huge delay.

27) For the above mentioned reasons, this Court holds that there is no any "sufficient cause" for the condonation of delay of 730 and 873 days in filing the appeals.

28) Accordingly, I.A.No.1 of 2022 in both the appeals is hereby dismissed.

29) In view of the dismissal of I.A.No.1 of 2022 in both the appeals, the main M.A.C.M.A. Nos.32 and 33 of 2022 shall stand dismissed.

30) There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in these appeals shall stand closed.

JUSTICE BATTU DEVANAND

Date : 04.02.2022
AMD

THE HON'BLE SRI JUSTICE BATTU DEVANAND

M.A.C.M.A.Nos.32 & 33 of 2022

Dt: 04.02.2022

AMD