

**IN THE HIGH COURT OF MADHYA PRADESH****AT INDORE****BEFORE****HON'BLE SHRI JUSTICE DUPPALA VENKATA RAMANA****ON THE 22nd OF NOVEMBER 2024****MISC. APPEAL No. 4649 of 2023****GODHA CAPCORN AND INSULATION THROUGH MANAGER****Versus****SMT. SANGEETA AND OTHERS****Appearance:***Shri Anendra Singh Parihar, counsel for the appellant.**Shri Manish Jain, counsel for the respondents No.1 to 4.***ORDER**

The appellant/employer has filed this appeal under Section 30 of Employees Compensation Act, 1923 against the award passed by the learned Commissioner, Workmen's Compensation, Labour Court, Indore, in Claim Case No.44/WC/2016/Fatal dated 14.05.2022.

2. The present appeal has been filed by the appellant with delay of 376 days and filed I.A. No.6552/2023.

3. The averments in the application is that the appellant filed the present appeal being aggrieved against the impugned award dated 14.05.2022 passed by the learned Commissioner, Labour Court, Indore in Claim Case No.44/WC/2016/Fatal dated 14.05.2022, to set-aside the award. Further stated that appellant is not aware of legal formalities regarding filing of appeal against the award. Further stated that he came to know about the impugned award passed against the appellant and he obtained the copy of award but timely he could not contact the office of



counsel for preferring the appeal before the Hon'ble High Court. Thereafter the appellant filed this appeal on 31.07.2023, therefore he prays to allow the application for condonation of delay of 376 days for filing the appeal.

4. Counsel for the respondents No.1 to 4 has filed the reply and averred that the appeal is hopelessly barred by limitation. He further averred that the counsel was watching the case proceedings before the learned Commissioner of Workmen Compensation and the deceased was the employee of appellant. He died during the employment at the working place and there is no scope for any success in the present appeal and day to day delay not explained properly in their application it is stated they were not aware of legal formalities and appeal has been filed with delay of 376 days for the reasons urged is found to be concocted. He prays for dismissal of delay application and consequently the appeal may also be dismissed.

5. Thus question for consideration is:-

“Whether there is sufficient cause to condone the delay of 376 days in filing this appeal.”

6. Undisputedly, the respondents filed the claim application before the Commissioner, Workmen Compensation Act, Labour Court, Indore, in Case No.44/WC//2016(F). Admittedly, the Labour Court, awarded an amount of Rs.6,69,337.50/- passed against the appellant on 14.05.2022.

7. Admittedly, the appeal filed on 31.07.2023 with a delay of 376 days and filed IA No.6552 of 2023 for condonation of delay. The application is supported by affidavit and the appellant has nothing to say anything except all the facts stated in the application in all paras are true and correct. While considering the application for condonation of delay, the Court has to see whether delay or inordinate delay is of few days and



that the reasons assigned in the application are valid or cogent needs to be explained properly whether they are reasonable or plausible.

8. In the cases of (i) *Allala Bhagavanth Rao vs Garvandula Vijayalaxmi and others* **2016 (4) ALT 43**, (ii) *Maniben Devraj Shah vs. Municipal Corporation of Brihan Mumbai*, **(2012) 5 SCC 157**, (iii) *Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy* **(2013) 12 SCC 649**, (iv) *Majji Sannemma alias Sanyasirao vs. Reddy Sridevi and others*, **2021 SCC Online SC 1260**, the Hon'ble Supreme Court has dealt with the issue of limitation.

9. In the case of **Kilaru Appa Rao vs. Sunku Prathapa Reddy, 2022 (6) ALT 288 (TS)** the Hon'ble Court observed:-

“11. The dictum of law is that the delay if inordinate, should not be condoned by adopting casual or liberal approach. Courts are not expected to condone the delay in the following circumstances:-

- “1. When the reason urged is found to be concocted.
2. When the party who seeks for condonation of delay is found to be thoroughly negligent.
3. In case condonation of inordinate delay leads to substantial injustice to the opposite party due to the subsequent events.
4. The inordinate delay, if condoned, results in unending uncertainty and consequential anarchy. The list is illustrative and not exhaustive.”

10. Apart from the above paras, another edition reported in **V. Subba Rao and Others vs. Secretary to Government Panchayat Raj and Rural Development, Government of AP and Others (7) (1996) 7 SCC 626**, it was observed that:

“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. Time is precious and wasted time would never revisit.



During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So, a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim interest *reipublicae ut sit finis litium* (It is for the general welfare that a period be put to litigation). The idea is that every legal remedy must be kept alive for legislatively fixed period of time”.

In the affidavit filed in support of application for condonation of delay that all the facts stating in the application are true and correct, the delay in filing the present appeal has not been properly explained and no sufficient reason has been stated. The affidavit filed in support of the application to condone the delay does not indicate valid reason. The appellant is also not vigilant in prosecuting the litigation. As per expressions of Hon'ble Apex Court, while condoning the delay the court must see whether the deponent explained sufficient cause, involving substantial rights of parties alone is not the criteria. Unless sufficient cause is shown, that in case of inordinate delay, condoning the delay does not arise.

11. A conspectus of above judgments referred to (*supra*), the Hon'ble Apex Court observed that length of delay is no matter, acceptability of the explanation is the only criterion. It was further held that the primary function of a Court is to adjudicate the dispute between the parties and to advance substantial justice. Rules of limitation are not meant to destroy the rights of parties and they are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. Hon'ble Apex Court also cautioned that if the delay is occasioned by party deliberately to gain time then the Court should lean against acceptance of the explanation. The explanation should not be fanciful and concocted. The Courts while



dealing with an application to condone delay should keep in mind the right accrued to other side and should deal with such application with utmost care and caution.

12. In the present case, the appellant failed to show sufficient cause to condone the delay as per the application and affidavit on record, the delay is nearly 376 days, this Court does not find any ground to condone the delay. Accordingly, I.A. No.6552/2023 is dismissed.

13. Consequently, the miscellaneous appeal is dismissed. No order as to costs.

14. As a sequel, all the pending applications shall stand closed.

(Duppala Venkata Ramana, J)

Arun/-