

Order below Exh.1

in

Civil Misc. Application (MACP) No.542/14

1. The present application is filed under Section 5 of the Limitation Act by the applicants who are the original claimants in MACP No.1314/91. It is contended by the claimants that on account of death of their father in the vehicular accident took place on 21-09-1990 by the vehicle No.GTF-3345, they have filed the claim petition. At the time of filing the claim petition, the claimants were minor so they have filed the petition through their guardian i.e. their grandfather and their mother. During the pendency of the said claim petition, both the guardians have passed away and the claimants have no knowledge about the petition so, the petition had been dismissed on 05-07-2013 due to non-availability of the claimants. It is contended that the applicants have no knowledge about the petitions and no knowledge about the Tribunal since the applicants are poor persons and belonging to labourer family. The applicants are illiterate persons and after their marriage, they are residing in their in-law's house. Therefore, for the purpose of restoring the same for deciding it on merits, the restoration application is required to be preferred within 30 days, but the delay of 11 months is caused in filing the restoration application. Further, it is contended that the

delay is not caused intentionally and it is caused due to unavoidable circumstances. So, considering all the above aspects, prayed to condone the delay and admit the restoration application.

It is required to note herein that after filing the present delay condonation application on 07-07-2014, neither the applicants nor their advocate remained present before the Tribunal to proceed with this application and therefore, this delay condonation application of the applicants has been dismissed by the Tribunal on 13-04-2017. Then after, the applicants have approached the Hon'ble High Court against the said order dtd.13-04-2017 by way of preferring Special Civil Application No.22857/2017, wherein the Hon'ble High Court has passed an order on dtd.10-07-2025 as under :

“12. With these reasons, the present writ petition is partly allowed by quashing and setting aside the impugned order dated 13.04.2017 passed below Exh. 1 of the Civil Miscellaneous Application No. 542 of 2014, passed by the learned Motor Accident Claim Tribunal, Godhra, Panchmahal. The Tribunal is directed to restore the aforesaid miscellaneous application to its original file. Since, the insurance company has been joined directly in the delay condonation application though being not joined as party to the original proceedings, it shall be open for the insurance company to raise all such contentions available in law before the tribunal. The claim tribunal shall be at liberty to decide the application of delay condonation strictly in accordance with law on its own merits. It is clarified that this Court has otherwise not examined the merits of the case; delay condonation and restoration.”

2. In view of the above cited order of the Hon'ble High Court, after the restoration of the present application to the file of this Tribunal, notices were issued and served to the opponents. However, they voluntarily choose not to appear before this Tribunal. Only the ld. advocate for the applicants has submitted written arguments vide Exh.24 with respect to the present application. This Tribunal has minutely perused and considered the same.

3. Having heard the ld. advocate for the applicants and perused the record of the case. First of all, it is apt to note here that, on perusal of the Judgment of the MACP No.1314/1991, dtd.05-07-2013 passed by the then Tribunal, it transpires that the present applicants are the original claimants of MACP No.1314/91 which was filed on account of death of their father in the vehicular accident took place on 21-09-1990 by the vehicle No.GTF-3345. Initially, the claim petition was filed through the guardian i.e. grandfather and mother since the present applicants were minor and subsequently on attaining the age of majority, necessary amendment is carried out and the names of the present applicants are substituted as claimants. Further, it transpires that the said claim petition was summarily dismissed by observing that, "till the date of the Judgment, the claimants have not produced any detail of the owner and insurance company of the offending vehicle and the claimants have not produced the

documentary evidence viz. Complaint of the accident, R.C. Book & Insurance Policy of the vehicle etc. and **accordingly the claimants have failed to prove the facts related to the accident and negligence of the driver of the offending vehicle.**” In view of the above observation, the Tribunal has dismissed the said petition summarily. Then after, the applicants have filed an application for the restoration of the said claim petition along with the application of delay condonation since the delay of 11 months is caused in filing the restoration application. *In relation thereto, this Tribunal is of the certain view that since the then Tribunal has dismissed the original claim petition summarily, hence, the restoration application is clearly not tenable in the eyes of law.* Even after filing of the said application of delay condonation, the applicants were not remaining present either *in persona* or through their advocate so, the said application was dismissed for default by the Tribunal on dtd.13-04-2017.

After the above mentioned chronological events, the applicants have approached the Hon’ble High Court against the said order dtd.13-04-2017 by way of preferring Special Civil Application No.22857/2017, wherein the Hon’ble High Court has passed an order on dtd.10-07-2025 and the order dtd.13-04-2017 is quashed and set aside and directed to restore the present application to its original file. Further, it is also observed in the said order

that, “The claim tribunal shall be at liberty to decide the application of delay condonation strictly in accordance with law on its own merits. It is clarified that this Court has otherwise not examined the merits of the case; delay condonation and restoration.”

- 3.1 In view of the above, this Tribunal has to decide the delay condonation application in accordance with law. First of all, this Tribunal is of the certain view that, since the original order passed by the then Tribunal on 05-07-2013 in MACP No.1314/91 dismissing the claim petition was on merit, whereby the then Tribunal has summarily dismissed the claim petition due to the reason as mentioned herein above in Para-3, it is therefore the restoration application filed by the applicants is not tenable in the eye of law. Since the restoration application is not tenable, hence, the delay condonation application requesting to condone the delay caused in filing of the restoration application, is clearly not tenable. On this legal ground, the present delay condonation application deserves to be rejected.

Without prejudice with the above observation, even the ground raised in the present delay condonation application be discussed, then it is mentioned by the applicants that they have no knowledge about the petitions and no knowledge about the Tribunal since the applicants were minor at the time of filing the claim petition and they

have filed the claim petition through their guardian i.e. their grandfather and their mother. Then after, during the pendency of the said claim petition, both the guardians have passed away and the claimants have no knowledge about the petition so, the petition had been dismissed on 05-07-2013 due to non-availability of the claimants. It is further averred that the applicants are poor persons and belonging to labourer family. The applicants are illiterate persons and after their marriage, they are residing in their in-law's house. Therefore, the delay of 11 months is caused in filing the restoration application. However, on perusal of the Judgment of the MACP No.1314/1991, dtd.05-07-2013 passed by the then Tribunal, it transpires that initially, the claim petition was filed through the guardian i.e. grandfather and mother since the present applicants were minor and subsequently on attaining the age of majority, necessary amendment is carried out and the names of the present applicants are mentioned as claimants. Further, it also transpires that the said claim petition was summarily dismissed on the ground of non-production of requisite documentary evidence in support of the claim petition till the date of the Judgment and the claimants have failed to prove the aspect of accident & negligence. Under these circumstances, when the present applicants have attained the age of majority during the pendency of the claim petition and they themselves have initiated the required procedure to substitute their names in

the claim petition, based upon the same, their names have been substituted as the original claimants. In the present situation, it is impossible to believe that the applicants were not knowing about the pendency of the said petition, as well as, the Tribunal in which their petition was pending. Judicial note to one important fact is required to be taken that in order to substitute the names of the claimants when they attained the age of majority, an application is required to be submitted by claimants themselves, under their own signature, supported by an affidavit. Without this procedure being carried out, the names of the applicants could not be substituted even after attaining the age of majority. In the instant case, no reason appears to believe that the applicants have not initiated such a procedure and have not taken part therein *in persona* or through their advocate. In the present situation also, it is impossible to believe that the applicants were not knowing about the pendency of the petition, as well as, to the fact that in which Tribunal, their petition was pending. Accordingly, the grounds raised by the applicants as to having no knowledge, is absolutely appears to be false and unbelievable. In addition to the same, nothing appears on record to believe that the applicants are poor, belonging to the labour family, as well as, being illiterate persons. So far as the ground as to ignorance of law is concerned, it is being settled law that the same can never be considered to be substantial ground. Except the same, the applicants

have not put forward any other ground which may be considered to be sufficient ground.

- 3.2 At this stage, it is required to refer the Judgment of the Hon'ble Supreme Court in the case of **N. Balkrishnan V/s. M. Krishnamurthy**, reported in **AIR 1998 SC 3222** wherein it is observed that, *“It is axiomatic that 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. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may not be condonable due to want of acceptable explanation whereas in certain other cases delay of very long range can be condoned as the explanation thereof is satisfactory. The Court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the Court is always deliberate. In my view the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice.”*

However, in the present case, it is required to note that the applicants have filed the restoration application along with the application to condone the delay of the period of 11 months, but as clarified herein above, the restoration application, itself, is not tenable in the eyes of

law and no any justifiable explanation is given by the applicants for such delay which can be considered to be sufficient one. This Tribunal is conscious of the fact that the proceedings under M.V. Act are for the purpose of granting compensation to the victim. The Act is beneficial benevolent, however, at the same time, it is required to note that the provisions of the Act cannot be misused by lingering the matter inordinately for the sake of getting interest for a huge period. Moreover, it is also required to note that, the incident of the accident is said to have been occurred in the year-1990 and the claim petition was preferred in the year-1991, however, since long, the applicant was not submitting the basic and material evidence proving the fact related to accident, as well as, negligence of the alleged driver of the offending vehicle, hence, the claim petition was summarily dismissed by the Tribunal on dtd.05-07-2013. As per the settled law, the applicants are duty bound to justify the delay which is caused in filing any application. In the instant case, as noted herein above, the applicants have remained absolutely failed to put forward the probable reason to justify that the applicants were actually not negligent and they have not been responsible for the said delay. Accordingly, the act of the applicants cannot be viewed leniently. Moreover, in the absence of sufficient ground explaining the delay caused in filing the application, as per

the settled law, such delay cannot be condoned. Hence, the present application deserves to be rejected.

4. In view of the above, this Tribunal is of the certain view to pass the final order below the present application as under :-

ORDER

1. The present application for condonation of delay is hereby rejected with costs.
2. Each of the applicants are directed to deposit the cost of Rs.5,000/- before the DLSA, Panchmahals at Godhra, within a period of 10 days from the date of this order.

Signed and pronounced in open Court today on this 30th day of May, 2026.

Date : 30-05-2026

Place : Godhra.

(Raja Ranchhodbhai Patel)
M. A. C. T. (Auxi.) &
6th Additional District Judge,
Panchmahals at Godhra.
GJ00922