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Received on : 21/01/2020

Registered on : 21/01/2020

Decided on : 22/07/2026

Duration : Y. M. D.

Exh. _____

**IN THE COURT OF 3rd ADDITIONAL DISTRICT JUDGE &
MOTOR ACCIDENT CLAIMS TRIBUNAL [SPL.]
AT : RAJKOT.**

C. M. APPLICATION (Restoration) No.15/2020
[FOR RESTORATION OF M.A.C.P. No. 98/2013]

Legal heirs of deceased Dineshbhai @ dilip Ravjibhai Parmar

Ravjibhai Ramjibhai Parmar
Hindu, Adult,
R/o. Kolithad, Tal. Gondal, Dist. Rajkot.

::: Applicants

Versus

Owner of Truck No.GQG-6651 :

Kashyapbhai Atulbhai Vachhani
R/o. Ramkrushnanagar Main Road, Gundala Road,
Gondal. (Dist. Rajkot).

::: Opponent.

Appearance :

For the Applicant	:	Ld. Adv. Mr. R. V. Parekh
For the Opponent	:	Duly served but remained absent.

An Application for condonation of 349 days occurred in
Restoration Application of M.A.C.P. No.98/2013.

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~: JUDGMENT :~

1. The applicant has filed the present application for condonation of delay of 349 occurred in filing Restoration Application of M.A.C.P. No.98/2013, which has been dismissed for default (on the ground of non-proceedings of case by the applicant side) by the then Ld. Motor Accident Claims Tribunal (Aux.), Rajkot by passing an order below Exh.1 on dtd.27/02/2019.

2. After filing this application, the opponent was duly served with the notice. In-spite of being served, the opponent has chosen not to remain present before this Tribunal.

3. The Ld. Advocate for the applicant has argued and submitted that; in connection with the case of death of his son Dineshbhai in a Motor Vehicle Accident, he had preferred Claim Case NO.98/2013 on dtd. 24/01/2013, by engaging Lawyer Mr. S. A. Suraiya of Rajkot. He has submitted that, the applicant was neither informed by his Ld. Adv. nor by Hon'ble Tribunal about the court hearing date 27/02/2019 and therefore, he was not remained present before the Tribunal. He has submitted that, in the said M.A.C.P., the applicant has placed on record the copy of complaint, panchnama, R.C. Book of vehicle involved in accident and P.M. Note etc. He has submitted that, the applicant is of labour class person and unaware about the legal process and therefore, due to non appearance on his part, the Ld. Tribunal has dismissed his case for default on 27/02/2019. Further, the Ld. Adv. for the applicant has stated that, thereafter, the applicant had

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inquired about his case to his Lawyer, however, no information was given to him. Lastly, the applicant had inquired from Hon'ble Tribunal on dtd. 15/12/2019 and he came to know about the dismissal of his case. Therefore, after that, he had applied for certified copy of the order of Hon'ble Tribunal on 17/12/2019, which he had received on dtd. 08/01/2020 and thereby delay of 349 days occurred in filing the Restoration Application of Claim Petition No. 98/2013. Lastly, he has submitted that, if the said claim petition is not decided on merits, the principle of natural justice would not survive, the applicant would be deprived of justice and will have to suffer a great deal, hence prayed to allow the present delay condonation application filed for restore the claim petition.

4. I have head Ld. Advs. for the respective parties and taken into consideration the evidence produced on record.

5. Before dealing with the facts of the present case, at this juncture it is profitable to refer the below mentioned observation of **Hon'ble Apex Court laid down in ;**

01. N. Balakrishnan v. M. Krishnamurthy (1998)

- This is a landmark case often cited for its liberal approach toward condoning delays.
- The court held that the acceptability of the explanation is the sole criterion, and the length of the delay is irrelevant. As Justice K. T. Thomas stated, there can be instances where a short delay is not condoned due to an unacceptable explanation, and conversely, years of delay are overlooked if the reason is satisfactory.

- The court emphasized that courts should adopt a pragmatic and justice-oriented approach rather than a pedantic one when considering delay applications.

02. Collector, Land Acquisition, Anantnag v. Mst. Katiji (1987) :

- This judgment established a set of principles for dealing with delay condonation, emphasizing a liberal and justice-oriented approach.
- The court noted that refusing to condone a delay can lead to a meritorious matter being dismissed at the threshold. Conversely, condoning a delay only means the case will be decided on its merits.
- It also stated that there should be no presumption that the delay was deliberate.

03. Basawaraj and Anr. v. Special Land Acquisition Officer (2013) :

- In this ruling, the Supreme Court clarified that while a liberal approach is appropriate, it cannot be used to completely disregard the law of limitation.
- The court held that the discretion to condone a delay must be exercised judiciously and that the expression "sufficient cause" cannot be interpreted liberally if there is clear evidence of negligence, inaction, or a lack of bona fide intention.

Summary of the Supreme Court's position : The Supreme Court has established a balanced approach, guided by these key principles :

Sufficient cause is paramount: The central requirement is for the appellant to provide a convincing and sufficient reason for the delay.

Discretionary, not absolute: Condonation is not an automatic right. The court retains discretion based on the facts of each case.

Justice-oriented approach: Courts should prioritize substantial justice over technicalities, but without overlooking negligence or lack of good faith.

Balanced consideration: The court must weigh the reasons for the delay against the right of the other party to have a final judgment.

4. The concept “sufficient cause” has not been explained anywhere in the Code of Civil Procedure or Motor Vehicles Act. But as held in the case of **Parimal V/s. Veena, reported in (2011) 3 SCC-545**, the meaning of the word “sufficient” is “adequate” or “enough”, in as much as may be necessary to answer the purpose intended. In this context, “sufficient cause” means that the party had not acted in a negligent manner or there was a want of bonafide on its part in view of the facts and circumstances of a case or the party cannot be alleged to have been “not acting diligently” or “remaining inactive”.

6. Here in the case on hand, the case was filed in the year-2013 and thereafter, the applicant were not remained present before the Tribunal to produce his evidence. It is the case of the applicant that; he had preferred Claim Case NO.98/2013 on dtd. 24/01/2013 by engaging Lawyer Mr. S. A. Suraiya of Rajkot. It is also the case of the applicant that; the applicant was neither informed by his Ld. Adv. nor by Hon’ble Tribunal about the court hearing date 27/02/2019 and therefore, he was not remained present before the Tribunal and resultantly, his case was dismissed for default by Hon’ble Tribunal. It is also submitted by

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applicant that on the record of the case, he has placed on record the copy of complaint, panchnama, R.C. Book of vehicle involved in accident and P.M. Note etc. It is also the case of the applicant that, he is of labour class person and unaware about the legal process. It is also stated by applicant that; his case was dismissed for default on 27/02/2019 and when the applicant had inquired about his case to his Lawyer, no information was given to him by his Lawyer and when he inquired before the Hon'ble Tribunal on dtd. 15/12/2019, he came to know about the dismissal of his case and thereafter, he had applied for certified copy of order on 17/12/2019, which was received by him on 8/1/2020 and thus the delay of 349 days occurred.

According to this Tribunal, no doubt, the explanation offered by the applicant shows some negligence on his part or his Advocate, but, the applicant should not be suffered/penalized on account of grounds narrated herein-above. Moreover, this Tribunal is of the view that, M. V. Act is a beneficial Act, and is a piece of welfare legislation and a liberal approach is required to be adopted while dealing with the matter under the M. V. Act, and the applicant/applicants would be deprived of justice and will have to suffer monetary loss in case of deciding such matter on technicalities rather than merits. Therefore, this Tribunal is of the view that, the applicant has successfully explained the grounds of delay occurred by giving sufficient cause. Thus, in view of the same, the present delay condone application is required to be allowed.

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In view of the above discussions, the following final order is passed in the interest of justice.

:-ORDER:-

- 1 Present **Civil Misc. Application No.15 of 2020** for condonation of delay of 349 days in filing (A Restoration Application in M.A.C.P. No.98/2013) is hereby allowed.
2. The Registry is hereby directed to register the Restoration Application as per rules.
3. No order as to costs.

Pronounced in open Court today at Rajkot on this 22nd day of July, 2026.

Date :22/07/2026
Place : RAJKOT

[IKRAMKHAN BASIRKHAN PATHAN]
M.A.C.T. (Spl.) & 3rd Addl. District Judge,
Rajkot.
[UIC – GJ000614].

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