



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3505]

THURSDAY, THE TWELFTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

**I.A.NO.1 OF 2019 AND MOTOR ACCIDENT CIVIL
MISCELLANEOUS APPEAL NO: 1091/2019**

Between:

1. SKAIK KHADEER, S/O ABDUL SHUKUR, AGED ABOUT
28 YEARS, C/O MODERN AGRO INDUSTRIES,
AUTONAGAR, GUNTUR.

...APPELLANT

AND

1. USHODAYA TRANSPORT CO, REP. BY D.V. RAMANA,
MACHERLA, OPP. TO KCP, GUNTUR DIST., (OWNER OF
LORRY BEARING NO. AP26U4817).

2. NATIONAL INSURANCE COMPANY LIMITED, REP. BY
ITS DIVISIONAL MANAGER, ARUNDELPET, GUNTUR,
(POLICE VALID UPTO 28.01.2010
NO.550506/31/0//630000 2386 OF NARASARAOPET
BRANCH).

...RESPONDENT(S):

Appeal filed under Order 41 of CPC praying that the High
Court may be pleased to the order passed in
M.V.O.P.No.618/2009, dated 30.04.2011 passed by the Motor

Vehicles Accidents Claims Tribunal, Guntur - cum - II Addl.
District Judge, Guntur.

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased To condone the delay of 2955 days in filing the above MACMA.

Counsel for the Appellant:

1.A RAJENDRA BABU

Counsel for the Respondent(S):

1.V HEMANTH KUMAR

2.

The Court made the following:

JUDGMENT:-

1. The present appeal is filed aggrieved by order dated 30.04.2011 passed in M.V.O.P.No.618 of 2009 on the file of the Chairman, Motor Vehicle Accidents Claims Tribunal-cum-II Additional District & Sessions Judge, Guntur.

2. The appeal is filed along with an application *vide* I.A.No.1 of 2019 seeking to condone delay of 2955 days in filing the appeal. On perusal of the averments made in support of the application, the petitioner did not explain the delay in preferring the present appeal and the said averments are vague and bereft of particulars. For proper appreciation of the case of the appellant, paragraph-3 of the affidavit is extract hereunder:

"I submit that the Judgment was pronounced on 30.4.2011. The copy application was filed on 2.5.2011 and the copy was made ready on 24.5.2011, and received on 25.5.2011. I submit that my counsel informed me about the Judgment and requested me to approach his office so as to appreciate the contents of Judgment. I submit that due to domestic reasons I could not approach him immediately. I approached my counsel in the month of July, 2011. Thereupon he informed the contents of the Judgment and advised me to prefer an appeal before this Hon'ble Court. I submit that due to financial difficulties I approached the counsel at Hyderabad in the month of December, 2011 and he advised me that there is a delay in filing the appeal and the delay will be condoned only by showing a sufficient

cause. I submit that I am not aware of the legal procedure and its complications. The delay is initially was due to my domestic problems and thereafter due to my financial difficulties. Hence the delay. The delay is neither willful nor wanton. I submit that I was advised that there is likely hood of getting more compensation. I submit that unless this Hon'ble Court condones the delay in filing the appeal I would be put to irreparable loss and hardship."

3. During the course of hearing, the counsel for the applicant has submitted that though he has applied for certified copy of the order under challenge and the same was received on 25.05.2011, due to domestic reasons, he could not approach the counsel for filing the present appeal. He would further submit that apart for the same, due to financial difficulties he could not approach the counsel in Hyderabad. It is further case of the applicant that he is not aware of the legal procedure, therefore, the delay was caused in filing the present appeal.

4. On the other hand, the learned counsel for the respondents vehemently opposed the delay application on the ground that the petitioner has not explained the inordinate delay in preferring the appeal. He would further submit that the averments made in support of the application are nothing but an afterthought and the same cannot be condoned.

5. Heard the learned counsel for the applicant/appellant and learned counsel for the 2nd respondent.

6. Perused the record.

7. A perusal of the affidavit filed in support of the application, it is clear that the appellant did not explain the delay in preferring the appeal. The order under challenge was passed on 30.04.2011. As per the contents of the affidavit, the certified copy of the orders was obtained on 25.05.2011. Except stating that due to domestic reasons, financial constraint and lack of legal knowledge, he could not file the appeal, nothing is stated to substantiate the said contention in approaching this Court. Further, inordinate delay of 2955 days cannot be condoned as a matter of routine or on mere asking. In the absence of any proper and plausible explanation, the delay application is liable to be dismissed.

8. The Hon'ble Apex Court, while dealing with the aspect of condoning delay, recently in the judgment of ***Pathapati***

Subba Reddy and Others v. Special Deputy Collector and

Others¹ held as follows at paragraph No. 26:

“26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

¹ 2024 SCC OnLine SC 513

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”

9. In ***Thirunagalingam Vs. Lingeswaran and another***², the Hon’ble Apex Court held as follows at paragraph Nos.31 and 32:

“31. It is a well-stated law that while considering the plea for condonation of delay, the first and foremost duty of the court is to first ascertain the bona fides of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter. Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay.

32. Further, this Court has repeatedly emphasized in several cases that delay should not be condoned merely as an act of generosity. The pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party. In the present case, the respondents/defendants have failed to demonstrate reasonable grounds of delay in pursuing the matter, and this crucial requirement for condoning the delay remains unmet.”

² 2025 SCC OnLine SC 1093

10. Following the judgments referred to above, this Court is not inclined to condone the inordinate delay. Accordingly, I.A.No.1 of 2019 is dismissed. Consequently, M.A.C.M.A.No.1091 of 2019 is also dismissed.

There shall be no order as to costs. As a sequel, all pending miscellaneous petitions, if any, shall stand closed.

JUSTICE T.C.D. SEKHAR

Dt.12.02.2026
SR