

**HIGH COURT OF ANDHRA PRADESH: AMARAVATI**

**MAIN CASE No: M.A.C.M.A.No.717 of 2023**

**PROCEEDING SHEET**

<b><u>SL. NO.</u></b>	<b><u>DATE</u></b>	<b><u>ORDER</u></b>	<b><u>OFFICE NOTE</u></b>
01.	08.11.2024	<p><b><u>BSB, J</u></b></p> <p style="text-align: center;"><b><u>I.A.No.1 of 2023</u></b></p> <p>This petition is filed to condone the delay of 128 days in filing appeal against the judgment and decree dated 22.02.2023 passed in M.V.O.P.No.212 of 2018 on the file of the Motor Vehicle Accidents Claims Tribunal-Cum-II Additional District Judge, Visakhapatnam.</p> <p>The contention of the petitioner/appellant is that the tribunal passed award on 22.02.2023 and application for certified copy was filed by the petitioner/appellant on 17.04.2023, stamps were called on 19.04.2023, copy of the award and decree were made ready on 03.05.2023 and the same was delivered on 03.05.2023 and that they were sent to the advocate for the appellant for opinion and along with the opinion they were sent to TP Hub, Visakhapatnam and later forwarded to the Regional Office, Visakhapatnam and thus the whole procedure led to delay of 128 days in filing the appeal, the delay is neither wilful nor deliberate and it is purely due to administrative reasons as stated</p>	

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		<p>supra. The petition was opposed by filing counter of the 1<sup>st</sup> respondent/petitioner.</p> <p>Respondent Nos.2 and 3 herein did not contest before the tribunal.</p> <p>Respondent No.1 filed counter opposing the petition stating that the petitioner did not assign proper reason or cause for the delay and that there is no merit in the petition to condone the delay.</p> <p>The learned counsel for the petitioner submitted that since there are no deliberate latches on the part of appellant and the reason for the delay is only due to the procedural process, it may be condoned.</p> <p>The learned counsel for the respondent No.1 stated that the petitioner stands on the same footing as a private party and administrative reasons cannot be treated as sufficient cause for condoning the delay and placed reliance on the decisions of <b>Office Of The Chief Post Master &amp; Ors vs Living Media India Ltd.&amp; Anr</b><sup>1</sup> at para 28, which reads as follows:</p> <p>“Though we are conscious of the fact that in a matter of condonation of delay when</p>	Contd...

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<sup>1</sup> (2012) 3 SCC 563

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		<p>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.”</p> <p>Therefore, he vehemently contended that the delay in filing the appeal should not be condoned in the present case.</p> <p>In reply, the learned counsel for the petitioner stated that there are serious points of law raised in the appeal opposing the grant of compensation and the appeal is not filed on mere whimsical grounds and therefore, the appeal may be condoned liberally.</p> <p>In the present case, except for the period between the date of award and the date of filing the application for providing certified copy, the rest of the period of delay is due to procedure which is indispensably required for the</p>	<p><i>Contd...</i></p>

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		<p>petitioner to file an appeal. Therefore, it cannot be treated as deliberate or negligence of the petitioner. Moreover, the length of the delay is unreasonable to consider it as deliberate latches on the part of the advocate in causing the delay and for the short period of delay before filing the application for certified copy, to compensate the 1<sup>st</sup> respondent/claimant, some terms can be imposed while condoning the delay to adjudicate the dispute on merits.</p> <p>The decision relied on by the learned counsel of the respondent does not debar condonation of delay in every case. Basing on the facts and circumstances in that particular case, it was decided.</p> <p>Therefore, this Court is of the view that condonation of delay in the present case is not on mere liberal concession, but on the reasons noted above.</p> <p>In the result, the petition is allowed and the delay is condoned on the condition that the petitioner shall pay Rs.1000/- to the 1<sup>st</sup> respondent within thirty (30) days failing which, petition stands closed without any further order.</p> <p style="text-align: right;"><b>B.S. BHANUMATHI, J</b></p> <p>DSV</p>	

