



2026:CGHC:3813

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1919 of 2023

1 - Smt. David Dhivar W/o Late Shiv Charan Dhivar Aged About 20 Years Resident Of Shanti Chowk, Village Boriyakala Police Station Muzgahan District Raipur Chhattisgarh

2 - Smt. Malabai Dhiwar W/o Late Mr. Bhukhanlal Dhiwar Aged About 45 Years Resident Of Shanti Chowk, Village Boriyakala Police Station Muzgahan District Raipur Chhattisgarh

3 - Ku. Manisha Dhivar S/o Late Mr. Bhukhanlal Dhiwar Aged About 19 Years Resident Of Shanti Chowk, Village Boriyakala Police Station Muzgahan District Raipur Chhattisgarh

4 - Takeshwar Dhivar Minor Aged About 04 Months, S/o Late Shivcharan Dhivar Mrs. David Dhivar Mother Applicant No. 04 In The Capacity Of Natural Guardian

... Petitioner(s)

versus

1 - Bhukhan Ojha S/o Late Panchuram Aged About 46 Years Resident Of Village Boriyakala Police Station Muzgahan District Raipur Chhattisgarh (Owner Of Motor Cycle Bearing No. Cg-04/du-07394)

2 - National Insurance Company Limited Through Branch Manager, Address Mobin Mahal, G.E. Road Raipur Chhattisgarh (Insurer Of Motor Cycle Bearing No. Cg-04/du-07394)

3 - Arvind Vikram S/o Narendra Vikram Aged About 30 Years R/o Girls School, Near School, Shanti Nagar, Police Station Civil Line, District Raipur Chhattisgarh (Driver Of Motor Cycle Bearing No. Cg-04/dx-9359)

4 - Ravi Masih S/o Shir Vijay Mashi Aged About 52 Years R/o Shanti Nagar, Civil Lines, Raipur, District Raipur (C.G.) (Owner Of Motor Cycle Bearing No. Cg- 04/dx-9359)

... Respondent(s)

For Appellants	:	Shri Akhilesh Mishra, Advocate.
For Respondent No.2	:	Shri Akash Shrivastava, Advocate holding the brief of Shri R.N. Pusty, Advocate.

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

22.01.2026

1. The appellants/ claimants have filed this appeal under Section 173 of the Motor Vehicles Act for enhancement of compensation assailing the award passed by the learned Eleventh Additional Motor Accident Claims Tribunal, Raipur, District Raipur in Claim Case No.643 of 2017 dated 31.10.2022, whereby the learned Tribunal decided an application moved under Section 163A of the Motor Vehicles Act and granted compensation to the tune of Rs.5,00,000/- alongwith interest @ 9% per annum. The claimants have preferred this appeal with delay of 234 days.
2. Learned counsel for the appellants would submit that the award was passed on 31.10.2022 whereas, this appeal was preferred on 6.11.2023. He would submit that appellant No.1 is a widow and has no knowledge of law of limitation, therefore, she could not prefer the appeal within the prescribed period. He would pray to condone the delay.
3. On the other hand, learned counsel for respondent No.2 would oppose. He would submit that the claimants failed to explain the delay of 234

days properly.

4. Heard learned counsel for the parties and perused the documents present on the record with utmost circumspection.
5. A perusal of memo of appeal would show that there are three major claimants, namely Smt. David Dhiwar, aged about 20 years, Smt. Malabai Dhiwar aged about 45 years and Ku. Manisha Dhiwar, aged about 19 years. Appellant/ claimant No.1 – Smt. David Dhiwar is the widow of late Shiv Charan Dhiwar. Claimants No.2 & 3 could have preferred the appeal within the period of limitation. The judgment and award passed by the learned Tribunal was within their knowledge. The claimants have not explained the cause of delay properly in the application. It is nowhere stated as to when the claimants approached their counsel; collected certified copy of the award and preferred this appeal. The claimants have utterly failed to explain sufficient cause for the inordinate delay of 234 days.
6. Recently, the Hon'ble Supreme Court in the matter of ***Pathapati Subba Reddy (Died) by LRs. & Others vs. The Special Deputy Collector (LA)*** reported in ***2024 SCC OnLine SC 513 : 2024 4 SCR 241 : 2024 INSC 286*** dealt with the object of the law of limitation. In para 10 & 11, the object and import of Section 3(1) of the Limitation Act were considered and it was observed thus:-

“10. Section 3(1) of the Limitation Act, for the sake of convenience, is reproduced herein-below:

3. Bar of limitation. - (1) Subject to the provisions contained in sections 4 to 24 (inclusive), every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed, although limitation has not been set up as a defence.

11. Though Section 3 of the Act mentions about suit, appeal and application but since in this case we are

concerned with appeal, we would hereinafter be mentioning about the appeal only in context with the limitation, it being barred by time, if at all, and if the delay in its filing is liable to be condoned."

7. The Hon'ble Court referred to various judgments in the matter of ***Pathapati Subba Reddy (supra)*** in paras 19, 20, 21, 22 and 23, which are reproduced herein-below:-

"19. In Maqbul Ahmad and Ors. vs. Onkar Pratap Narain Singh and Ors, A.I.R. 1935 PC 85, it had been held that the court cannot grant an exemption from limitation on equitable consideration or on the ground of hardship. The court has time and again repeated that when mandatory provision is not complied with and delay is not properly, satisfactorily and convincingly explained, it ought not to condone the delay on sympathetic grounds alone.

20. In this connection, a reference may be made to Brijesh Kumar and Ors. vs. State of Haryana and Ors, 2014 (4) SCALE 50, wherein while observing, as above, this Court further laid down that if some person has obtained a relief approaching the court just or immediately when the cause of action had arisen, other persons cannot take the benefit of the same by approaching the court at a belated stage simply on the ground of parity, equity, sympathy and compassion.

21. In Lanka Venkateswarlu vs. State of Andhra Pradesh & Ors.,[2011] 3 SCR 217 : (2011) 4 SCC 363, where the High Court, despite unsatisfactory explanation for the delay of 3703 days, had allowed the applications for condonation of delay, this Court held that the High Court failed to exercise its discretion in a reasonable and objective manner. High Court should have exercised the discretion in a systematic and an informed manner. The liberal approach in considering sufficiency of cause for delay should not be allowed to override substantial law of limitation. The Court observed that the concepts such as 'liberal approach', 'justice- oriented approach' and 'substantial justice' cannot be employed to jettison the substantial law of limitation.

22. It has also been settled vide State of Jharkhand & Ors. vs. Ashok Kumar Chokhani & Ors., AIR 2009 SC 1927, that the merits of the case cannot be considered while dealing with the application for condonation of delay in filing the appeal.

23. In *Basawaraj and Anr. vs. Special Land Acquisition Officer*, [2013] 8 SCR 227 : (2013) 14 SCC 81, this Court held that the discretion to condone the delay has to be exercised judiciously based upon the facts and circumstances of each case. The expression 'sufficient cause' as occurring in Section 5 of the Limitation Act cannot be liberally interpreted if negligence, inaction or lack of bona fide is writ large. It was also observed that even though limitation may harshly affect rights of the parties but it has to be applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds."

8. In para 26, the Hon'ble Supreme Court in the matter of ***Pathapati Subba Reddy (supra)*** summarized the judgments passed in the above stated decisions and the same is reproduced herein-below:-

"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

(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 para 30, the Hon’ble Supreme Court held that condonation of the delay merely for the reason that the claimants have been deprived of the interest for the delay without holding that they had made out a case for condoning the delay is not a correct approach. Para 30 is reproduced herein-below:-

“30. The aforesaid decisions would not cut any ice as imposition of conditions are not warranted when sufficient cause has not been shown for condoning the delay. Secondly, delay is not liable to be condoned merely because some persons have been granted relief on the facts of their own case. Condonation of delay in such circumstances is in violation of the legislative intent or the express provision of the statute. Condoning of the delay merely for the reason that the claimants have been deprived of the interest for the delay without holding that they had made out a case for condoning the delay is not a correct approach, particularly when both the above decisions have been rendered in ignorance of the earlier pronouncement in the case of Basawaraj (supra).”

10. The Hon’ble Supreme Court in the matter of **Pathapati Subba Reddy (supra)** further held that the phrases ‘liberal approach’, ‘justice-oriented approach’ and ‘cause for the advancement of substantial justice’ cannot be employed to defeat the law of limitation so as to allow stale matters or as a matter of fact dead matters to be revived and re-opened by taking aid of Section 5 of the Limitation Act.

11. Considering the contents of the application for condonation of delay and the law laid down by the Hon'ble Supreme Court, I do not find any sufficient ground to allow the application. Accordingly, I.A. No.1 is hereby rejected and subsequently, the appeal is also **dismissed**.

Sd/-

(Rakesh Mohan Pandey)
Judge

Nimmi