

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.867 OF 2010  
(Arising out of SLP(Civil) No(s).12616/2008)

MOHAN LAL KANOJIA

Appellant

VERSUS

S.K.JAIN & ANR.

Respondents

O R D E R

Leave granted. Heard the parties.

2. The appellant is the owner of a bus which was involved in an accident on 8.9.1998 in which the first respondent was injured. The second respondent is the insurer of the bus. The first respondent lodged a claim for Rs.40,0,000/- (Rupees forty lakhs) as compensation for the injuries sustained before the Motor Accidents claims Tribunal ('Tribunal' for short). The appellant appeared before the Tribunal and filed his counter but did not contest the proceedings further. The appellant alleges that he did not participate in the proceedings as he was advised by his counsel that there was no need for him to contest the matter as the vehicle was insured and the insurer will contest and pay the compensation, if any.

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3. The Tribunal by its award dated 13.04.2007 allowed the claim of the first respondent in a sum of Rs.11,69,279/- (Rupees Eleven lakhs sixty nine thousand two hundred and seventy nine only) with interest @ 7% per annum. As the insurer had taken a contention that the driver was not licenced and as no evidence was let in by the appellant to show that the vehicle was driven by a

duly licenced driver, the Tribunal directed the insurer to pay the compensation amount to the first respondent and then recover the same from the owner of the vehicle(appellant).

4. Appellant challenged the said award of the Tribunal in an appeal before the High court. The High

court dismissed the said appeal on the ground of delay of 228 days, by the impugned order dated 25.03.2008. We

find that the appellant had explained the reasons for the delay in filing the appeal in detail in the application dated 1.3.2008 supported by an affidavit. He had stated

that he had blindly trusted his counsel and he became aware of the judgment and award of the Tribunal only when he became aware the execution proceedings. There is

nothing to disbelieve the explanation that has been given. We are of the view that as sufficient cause was

shown by the appellant, the High court ought to have condoned the delay and heard the appeal on merits.

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Failure to do so may lead to injustice.

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5. Accordingly we allow this appeal, set aside the judgment of the High Court, allow the application for condonation of delay, and restore the appeal to the file of the High Court with a request to the High Court to dispose of the appeal expeditiously.

.....J.  
[R.V. RAVEENDRAN]

NEW DELHI  
JANUARY 22, 2010

.....J.  
[K.S. RADHAKRISHNAN]

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S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).12616/2008

(From the judgement and order dated 25/03/2008 in MACA No.  
185/2008 & CM No. 4407/2008 of The HIGH COURT OF DELHI AT N.  
DELHI)

MOHAN LAL KANOJIA Petitioner(s)

VERSUS

S.K.JAIN & ANR. Respondent(s)

(With prayer for interim relief and office report)

(FOR FINAL DISPOSAL)

Date: 22/01/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN  
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN

For Petitioner(s) Mr. Utpal Saha,Adv.  
Ms. Asha Jain Madan,Adv.

For Respondent(s) Mr. A.K. Raina,Adv.  
Dr. Kailash Chand,Adv.  
Ms. Manjeet Chawla ,Adv

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.  
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Accordingly we allow this appeal, set aside the  
judgment of the High Court, allow the application for  
condonation of delay, and restore the appeal to the file of  
the High Court with a request to the High Court to dispose  
of the appeal expeditiously.

(O.P. Sharma)  
Court Master

(M.S. Negi)  
Court Master

(Signed order is placed on the file.)