

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****FAO-CARB-12-2024 (O&M)****Date of Decision : 10.08.2026**

State of Punjab & Ors.

... Appellants

Versus

M/s Rohan Rajdeep Tollways Pvt. Ltd. & Ors.

... Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN
HON'BLE MRS. JUSTICE AMARJOT BHATTI**

Present : Mr. Somesh Arora, Addl. AG Punjab and
Ms. Shiny Chopra, AAG Punjab for the appellants.

Mr. Ramanjit Singh, Advocate for the respondents.

ALKA SARIN, J. (Oral)

1. The present appeal has been filed alongwith an application being CM-29-FCARB-2024 for condonation of delay of 196 days in filing the present appeal. It has been stated in the application for condonation of delay that the impugned judgment was passed on 28.03.2023 and thereafter the applicant-appellants kept on checking the website of the District Courts, Chandigarh, however the judgment was not uploaded. After waiting for a considerable period of time, the applicant-appellants applied for the certified copy of the impugned judgment on 16.05.2023, which was prepared on 01.07.2023 and taken by the applicant-appellants on 05.07.2023. Thereafter, on receiving the copy of the impugned judgment, the applicant-appellant sought opinion for challenging the same by filing an appeal. The appeal was prepared on 22.09.2023 and on 26.09.2023 the same was sent to the Office of Superintending Engineer, National Highway Circle, Chandigarh through online portal, however, the Superintending Engineer, National Highway

Circle, Chandigarh had relinquished his charge. On 05.10.2023 the appeal was forwarded to the Chief Engineer (South), PWD (B&R), Patiala through online portal for necessary action. On 18.10.2023 the Chief Engineer (South) forwarded the appeal vide office letter No.3063 to the Government for necessary approval. On 08.11.2023 the appeal was received back from the Government with certain suggestions. After incorporating the suggestions as suggested by the Office of L.R. PWD, the appeal was again sent to the Office of Superintending Engineer, National Highway Circle, Chandigarh on 13.12.2023 for further action and the approval was granted on 16.01.2024 to file the present appeal.

2. Learned State counsel appearing on behalf of the applicant-appellants has vehemently contended that cogent reasons have been given for the delay caused in filing the appeal. It has further been contended that the Court has the power to condone the delay. In support of his contention he has relied upon judgments of the Supreme Court in the cases of **Government of Maharashtra (Water Resources Department) Represented by Executive Engineer vs. M/s Borse Brothers Engineers and Contractors Private Limited [(2021) 6 SCC 460]**, **M/s Jaitley Construction Co. vs. Union of India [SLP (Civil) No.12180 of 2023 decided on 24.11.2023]** and **The State of Tripura & Anr. vs. Sri Subhash Chandra Datta [Diary No.1657 of 2024 decided on 17.11.2025]**.

3. *Per contra* learned counsel for the respondents has contended that though it has been mentioned in the application that there is a delay of 196 days in filing the appeal however as per Section 13 of the Commercial Courts Act, 2015 the limitation commences from the date of the judgment or the order and the appeal to the Commercial Appellate Division of the High

Court has to be filed within a period of 60 days thereafter. If the limitation is calculated from the date of the order, the delay is almost 240 days after excluding the period of 60 days.

4. We have heard learned counsel for the parties.

5. In the present case though in the application for condonation of delay it has been stated that the judgment was delivered on 28.03.2023 and till 16.05.2023 it was not uploaded, however, this is factually incorrect. On checking the e-Court website it transpires that the judgment was uploaded on 21.04.2023 at 04.33 pm. The applicant-appellant applied for the certified copy of the judgment on 16.05.2023. The same was ready on 01.07.2023 which was again not collected by the applicant-appellant till 05.07.2023. Even thereafter, the appeal has been filed only on 22.01.2024.

6. The Supreme Court in the case of **Government of Maharashtra (Water Resources Department) Represented by Executive Engineer** (*supra*) has held as under :

“55. Nearer home, in Brahampal v. National Insurance Company, 2020 SCC OnLine SC 1053, this Court specifically referred to the difference between a delay in filing commercial claims under the Arbitration Act or the Commercial Courts Act and claims under the Motor Vehicles Act, 1988, as follows:

“16. This Court has firstly held that purpose of conferment of such power must be examined for the determination of the scope of such discretion conferred upon the court. [refer to Bhaiya Punjalal Bhagwandin v. Dave Bhagwatprasad

Prabhuprasad, AIR 1963 SC 120; Shri Prakash Chand Agarwal v. Hindustan Steel Ltd., (1970) 2 SCC 806]. Our analysis of the purpose of the Act suggests that such discretionary power is conferred upon the Courts, to enforce the rights of the victims and their dependents. The legislature intended that Courts must have such power so as to ensure that substantive justice is not trumped by technicalities.

(emphasis supplied)

“22. Therefore, the aforesaid provision being a beneficial legislation, must be given liberal interpretation to serve its object. Keeping in view the substantive rights of the parties, undue emphasis should not be given to technicalities. In such cases delay in filing and refiling cannot be viewed strictly, as compared to commercial claims under the Arbitration and Conciliation Act, 1996 or the Commercial Courts Act, 2015. In P. Radha Bai v. P. Ashok Kumar, (2019) 13 SCC 445, wherein this Court while interpreting Section 34 of the Arbitration Act, held that the right to object to an award itself is substantively bound with the limitation period prescribed therein and the same cannot merely a procedural prescription. In effect the Court held that a complete petition, has to be filed within the time prescribed under Section 34 of the Arbitration Act and ‘not thereafter’. The Court

while coming to the aforesaid conclusion, reasoned as under:

“36.1 First, the purpose of the Arbitration Act was to provide for a speedy dispute resolution process. The Statement of Objects and Reasons reveal that the legislative intent of enacting the Arbitration Act was to provide parties with an efficient alternative dispute resolution system which gives litigants an expedited resolution of disputes while reducing the burden on the courts. Article 34(3) reflects this intent when it defines the commencement and concluding period for challenging an award. This Court in Popular Construction case [Union of India v. Popular Construction Co., (2001) 8 SCC 470] highlighted the importance of the fixed periods under the Arbitration Act. We may also add that the finality is a fundamental principle enshrined under the Arbitration Act and a definitive timelimit for challenging an award is necessary for ensuring finality. If Section 17 were to be applied, an award can be challenged even after 120 days. This would defeat the Arbitration Act's objective of speedy resolution of disputes. The finality of award would also be in a limbo as a party

can challenge an award even after the 120 day period.”

(emphasis in original)

“23. Coming back to the Motor Vehicles Act, the legislative intent is to provide appropriate compensation for the victims and to protect their substantive rights, in pursuit of the same, the interpretation should not be as strict as commercial claims as elucidated above.

24. Undoubtedly, the statute has granted the Courts with discretionary powers to condone the delay, however at the same time it also places an obligation upon the party to justify that he was prevented from abiding by the same due to the existence of “sufficient cause”. Although there exists no strait jacket formula for the Courts to condone delay, but the Courts must not only take into consideration the entire facts and circumstances of case but also the conduct of the parties. The concept of reasonableness dictates that, the Courts even while taking a liberal approach must weigh in the rights and obligations of both the parties. When a right has accrued in favour of one party due to gross negligence and lackadaisical attitude of the other, this Court shall refrain from exercising the aforesaid discretionary relief.

25. Taking into consideration the facts and circumstances of the present case, we are of the opinion that the delay of 45 days has been properly explained by the appellants, which was on account of illness of the wife of Appellant No. 1. It was not appropriate on the part of the High Court to dismiss the appeal merely on the ground of delay of short duration, particularly in matters involving death in motor accident claims. Moreover, in the present case no mala fide can be imputable against the appellants for filing the appeal after the expiry of ninety days. Therefore, we are of the opinion that the strict approach taken in the impugned order is hyper-technical and cannot be sustained in the eyes of law.”

(emphasis supplied)

Thereafter the expression ‘sufficient cause’ has been dealt with in paras 56 to 58. It has further been held in paras 60 and 61 as under :-

“60. Also, it must be remembered that merely because sufficient cause has been made out in the facts of a given case, there is no right in the appellant to have delay condoned. This was felicitously put in *Ramlal v. Rewa Coalfields Ltd.*, (1962) 2 SCR 762 as follows:

“It is, however, necessary to emphasise that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a

condition precedent for the exercise of the discretionary jurisdiction vested in the court by s. 5. If sufficient cause is not proved nothing further has to be done; the application for condoning delay has to be dismissed on that ground alone. If sufficient cause is shown then the Court has to enquire whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bona fides may fall for consideration; but the scope of the enquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the Court may regard as relevant. It cannot justify an enquiry as to why the party was sitting idle during all the time available to it. In this connection we may point out that considerations of bona fides or due diligence are always material and relevant when the Court is dealing with applications made under s. 14 of the Limitation Act. In dealing with such applications the Court is called upon to consider the effect of the combined provisions of ss. 5 and 14. Therefore, in our opinion, considerations which have been expressly made material and relevant by the provisions of s. 14 cannot to the same extent and in the same manner be invoked in

dealing with applications which fall to be decided only under s. 5 without reference to s. 14.”

(page 771)

61. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals filed under section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or section 13(1A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches.”

7. The judgments relied upon by learned State counsel in the cases of **M/s Jaitley Construction Co.** (*supra*) and **The State of Tripura** (*supra*) would not come to his aid as in both the cases there were cogent reasons forthcoming for condoning the delay. However, as discussed above, in the present case the State chose not to even apply for the certified copy of the impugned judgment after pronouncement of the same on 28.03.2023 and applied for the certified copy only on 16.05.2023. Even the averment made in the application for condonation of delay that the order was not uploaded is also factually incorrect.

8. Keeping in view the facts as narrated above and the lacklustre attitude adopted by the State in not even applying for the certified copy of the impugned judgment till 16.05.2023, there is no ground to condone the delay in filing the present appeal. Accordingly, the application (CM-29-FCARB-2024) for condoning the delay in filing the present appeal is dismissed. Consequently, the present appeal stands dismissed being barred by limitation. Pending applications, if any, also stand disposed off.

**(ALKA SARIN)
JUDGE**

10.08.2026
jk

**(AMARJOT BHATTI)
JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO