

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Miscellaneous Appeal No.695/2021

Vimla W/o Late Sh. Satyaveer, Aged About 48 Years, R/o Shayampura, Teh. Buhana, District - Jhunjhunu (Raj.)

----Claimant/Appellant

Versus

1. Through Branch Manager, H D F C Argo General Insurance Company Ltd., Branch Office - Iind Floor C-98, Sanghi Upasana Tower Subhash Marg, C-Scheme, Jaipur (Raj.) (Insurance Company Of Bus No.RJ-18 PA-2042)
2. Smt. Tarawati W/o Dalip Singh, R/o Kalakhari, Tehsil - Buhana, District - Jhunjhunu (Raj) (Registered Owner Of Bus No.RJ-18-PA-2042)
3. Ashok Kumar S/o Lalchand, R/o Jatuwas, P.s. - Modal Town, Tehsil And District - Rewari (HR) (Driver Of Bus No. RJ-18 PA-2042)

----Respondents

For Appellant(s) : Mr. Brahma Prakash, Advocate

**HON'BLE MR. JUSTICE PRAKASH GUPTA
Order**

30/06/2022

This civil misc. appeal has been filed by the appellant – claimant (for short 'the claimant') for enhancement of compensation of Rs.6,88,000/- alongwith interest @6% p.a. from the date of filing the claim petition as awarded by the Motor Accident Claims Tribunal, Khetri, District Jhunjhunu (for short 'the Tribunal') vide its judgment and award dated 01.06.2019 in Claim Case No.52/2015 (CIS No. MACT Org./994/2015).

Since the appeal has been filed with a delay of 558 days, an application under Section 5 of the Limitation Act has also been filed therewith seeking condonation of the aforesaid delay.

Learned counsel for the claimant submits that three claim petitions came to be decided by the Tribunal vide its common judgment dated 01.06.2019. He further submits that although the appeal was to be filed within the period of 90 days but the claimant is suffering from hyper tension and other diseases, therefore the claimant could not contact her counsel in time for filing the appeal. When the claimant came to Jaipur for her treatment, she contacted her counsel who immediately thereafter drafted the appeal and filed the same before this Court. Delay in filing the present appeal is bonafide and same may kindly be condoned.

Heard. Considered.

Reasons given in Para Nos.2, 3 and 4 of the application under Section 5 of the Limitation Act are reproduced as under:-

- “2. That the appeal shall be filed within the period of 90 days but in this appeal period of 90 days has been expired and this appeal is time barred.
3. That the appellant is a single lady and suffering for hyper tension and others diseases that they could not contact their counsel for filing appeal.
4. That only when they come to Jaipur for purpose of treatment that contact their counsel Shri Brahma Prakash who immediately drafted the appeal and filed it.”

From a perusal of the material on record, it transpires that from the judgment and award dated 01.06.2019 passed by the Tribunal in three claim petitions, three separate appeals

bearing S.B. Civil Misc. Appeal Nos.678/2021, 694/2021 and 695/2021 came to be filed. Alongwith the appeals, applications under Section 5 of the Limitation Act have also been filed. In all the three applications, verbatim averments have been made that the appellant is suffering from 'hyper tension' and other diseases which is not possible. This shows that a concocted and manufactured ground has been prepared for condonation of delay. Further in support of the averments, no medical documents have been submitted, even no date has been mentioned as to when the claimants came to know about the judgment and award dated 01.06.2019 passed by the Tribunal and as to when they came to Jaipur and contacted their counsel. The application is bereft of material particulars and vague averments have been made. The civil misc. appeal has been filed with an inordinate delay of 558 days but no sufficient cause / reasonable explanation has been given in the application to condone the same.

In this view of the matter, I find no good reason to condone the inordinate delay of 558 days. The application under Section 5 of the Limitation Act is accordingly dismissed.

Consequent upon the dismissal of the application under Section 5 of the Limitation Act, the appeal also stands dismissed accordingly.

(PRAKASH GUPTA),J