

HIGH COURT OF SIKKIM
Record of Proceedings

I.A. No.01 of 2024 in MAC App./91/2024/(Filing No.)

THE BRANCH MANAGER,
NATIONAL INSURANCE COMPANY LIMITED

APPLICANT

VERSUS

MRS. SRIJANA CHETTRI AND OTHERS

RESPONDENTS

Date: 29.04.2025

CORAM:

THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

For Applicant Ms. Babita Kumari, Advocate.

For Respondents

R-1 & R-2 Mr. Tarun Choudhary, Advocate (*through VC*).

R-3 Mr. Rahul Rathi, Advocate.
 Ms. Lidya Pradhan, Advocate.

ORDER (ORAL)

1. I.A. No.01 of 2024, is an application under Section 173(1) of the Motor Vehicles Act, 1988, filed by the Applicant, seeking condonation of 266 days' delay, in filing the Appeal.

2. Learned Counsel for the Applicant submitted that, the impugned Judgment was pronounced on 30-09-2023. The copy of the Judgment was applied for by the Applicant on 01-10-2023, and the copy made available on 10-10-2023. The Appeal ought to have been filed on 08-01-2024, but came to be filed only on 23-08-2024, resulting in the delay of 266 days'. Learned Counsel for the Applicant submits that the delay occurred on account of the File movement that took place from the Branch Office, at Gangtok, to the Divisional Office, at Siliguri and thereafter to the Regional Office, at Kolkata and made its way back to the Branch Office, at Gangtok, after the Regional Office, at Kolkata, directed the Applicant to file the Appeal. It is contended by Learned Counsel, that apart from the grounds furnished for the delay, the instant case is fit to be heard on merits, the issue being, whether the legal heirs of the owner-cum-driver of the vehicle in accident is entitled

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to the compensation, over and above the Personal Accident Claim as per the Insurance Policy. That, the delay being unintentional and *bona fide*, may be condoned.

3. Learned Counsel for the Respondent No.3, the owner of the vehicle, opposed the Petition for delay, on grounds that, the I.A. *supra*, does not give details of the File movement and the dates on which the File went from one office to the next. That, a general application devoid of details for delay ought not to be considered by this Court while exercising its discretion for condoning the delay. That, in two similar matters involving the same Applicant, the delay application lacking details was rejected by this Court. Learned Counsel for the Respondent No.3 drew the attention of this Court to the decision in ***The Branch Manager, National Insurance Company Limited vs. Mr. Om Prakash Chettri and Others***¹ and ***The Branch Manager, National Insurance Company Limited vs. Krishna Bahadur Chettri and Others***² where the delay applications were rejected.

4. Learned Counsel for the Respondents No.1 and 2 objected to the Petition on the same grounds.

5. Having heard Learned Counsel for the parties and perused the I.A. *supra*, it is clear that the application fails to explain the delay that occurred on a day to day basis. It is also noticed that this Court in ***Mr. Om Prakash Chettri (supra)*** and ***Krishna Bahadur Chettri (supra)*** where the same Applicant had sought for condonation of 66 days' delay and 64 days' delay respectively, this Court was loathe to grant condonation on grounds that "sufficient cause" had not been put forth by the Applicant. The delay in both matters was sought to be explained by a blanket

¹ I.A. No.01 of 2016 in MAC App. No.08 of 2016, decided by this High Court, on 19-11-2016.

² I.A. No.01 of 2018 in MAC App. No.07 of 2018, decided by this High Court, on 09-10-2018.

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ground, i.e., administrative delays *sans* details. The grounds in the instant Petition are also the same i.e., administrative delays, which resulted from the movement of File from one office to the next. Indeed, I am aware that the Court cannot be pedantic while considering an application for condoning the delay as when technicality and substantial justice are pitted against each other, the latter ought to be given preference. I am conscious that in an unwieldy or large organisation the File movement is imperative and necessary orders, sanctions, have to be obtained from the highest authority in the chain of command of the organisation, before any decision can be taken. That is all very well. Nonetheless, it does not preclude the Applicant from giving details of the dates on which the File was forwarded from one office to the next and details of its return to various office and how the delay was *bona fide* on account of the administrative works involved. As held by this Court in **Mr. Om Prakash Chettri** (*supra*) that;

"7. that although delay can be condoned but the party concerned has to establish that there has been no gross negligence or deliberate inaction or lack of bona fides imputable to it. The Law of Limitation is substantive Law and has definite consequence on the right and obligation of the parties. The principles laid down in Law of Limitation have to be adhered to. At the same time, the Courts are clothed with powers to condone the delay provided "sufficient cause" is put forth for availing the remedy within the stipulated time. The grounds put forth by Appellant are merely administrative delays without furnishing the particulars thereof."

(i) In **Krishna Bahadur Chettri** (*supra*) also, this Court observed that there has to be application of mind while filing Petitions for condonation of delay. Reference therein was made to **Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy and Others**³ which observed that;

³ (2013) 12 SCC 649

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"22.1. (a) An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.

.....
22.4. (d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters."

These precautions put forth by the Supreme Court had clearly been reiterated by this Court by extracting the relevant Paragraphs, i.e., those extracted *supra*.

(ii) Despite the caution given to the Applicant in the said Petitions, the same Applicant today also is before this Court having paid no heed to the previous orders and the Applicant has by turning a blind eye to the pronouncements of the Hon'ble Supreme Court and this Court failed to correct itself and thereby explain the delay with sufficient cause.

(iii) In ***Basawaraj and Another vs. Special Land Acquisition Officer***⁴, reference was made to the decision in ***Arjun Singh vs. Mohindra Kumar and Others***⁵ wherein the Supreme Court held as follows;

"10. In *Arjun Singh v. Mohindra Kumar* [AIR 1964 SC 993] this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".

11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only *so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned*, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide *Madanlal v. Shyamlal* [(2002) 1 SCC 535 : AIR 2002 SC 100] and *Ram Nath Sao v. Gobardhan Sao* [(2002) 3 SCC 195 : AIR 2002 SC 1201].)"

Neither good cause nor sufficient cause as propounded above has been advanced by the Applicant.

⁴ (2013) 14 SCC 81

⁵ AIR 1964 SCC 993

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6. On careful consideration of the grounds canvassed in the instant matter, it is apparent that the Applicant has taken it for granted that this Court would, on the anvil of the question of merit, condone the delay and take up the matter for consideration, which is an erroneous preconceived notion. The delay not having been explained with sufficient cause is liable to be and is accordingly rejected and dismissed.

7. I.A. No.01 of 2024 stands disposed of accordingly.

8. Copy of this Order be forwarded to the Learned MACT for information.

Judge
29.04.2025

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