

# **Brahampal@Sammay vs National Insurance Co. on 7 August, 2020**

**Equivalent citations: AIRONLINE 2020 SC 827**

**Author: N. V. Ramana**

**Bench: Surya Kant, S.Abdul Nazeer, N.V. Ramana**

REPORTABLE

IN THE SUPREME COURT OF INDIA  
CIVILAPPELLATEJURISDICTION  
CIVIL APPEAL NO. 2926 OF 2020  
[Arising out of Special Leave Petition(C) No.13645 of 2018]

Brahampal @ Sammay and Anr

..... Appellants

Versus

National Insurance Company

.... Respondent

JUDGMENT

N. V. Ramana, J.

1. Delay condoned.

2. Leave granted.

3. This appeal arises out of the impugned order dated 17.10.2016 passed by the High Court of Uttarakhand at Nainital in AO No.266 of 2014, wherein the High Court dismissed the appeal on the grounds of delay of 45 days.

4. The facts in brief giving rise to this appeal are as follows: The deceased aged 26 years, met with an accident on 15.04.2011, as his bike crashed into a truck parked negligently on the road, without any backlight's indication. Resultantly, he Date: 2020.10.16 16:29:56 IST Reason:

succumbed to the injuries while being taken to the hospital.

The appellants (parents of the deceased) preferred a petition before the Motor Accident Claim Tribunal seeking compensation to the tune of Rs. 10 lakhs. Vide order 07.02.2014, the tribunal awarded a total sum of Rs.2.24 Lakhs as compensation along with interest of 6% p.a. Aggrieved, the appellants approached the High Court for seeking enhancement of compensation. It is to be noted that the aforesaid appeal before the High Court was filed with 45 days delay. In order to explain the same, the appellants herein filed an application being CLMA 6569/2014, seeking condonation of delay on the ground that his wife was ill, which prevented him from appealing in time.

5. By impugned order dated 17.10.2016, the High Court dismissed the aforesaid delay condonation application, consequent upon which the appeal also got dismissed. Aggrieved by the aforesaid order, the appellants herein have approached this Court through special leave petition.

6. The counsel on behalf of the appellants submitted that High Court has acted in an unjustified manner in dismissing the application for condonation of delay. On the contrary, the counsel on behalf of the Respondent supported the judgment passed by the High Court.

7. Having heard the counsel for both parties, the short question which arises for consideration in this appeal is whether the High Court erred in dismissing the delay condonation application for 45 days? This question turns on interpretation of Section 173 of Motor Vehicles Act, 1988 (hereinafter referred to as “the Act”).

8. At the outset, we must note that, Chapter XII of the Act is a beneficial legislation intended at protecting the rights of victims affected in road accidents. Moreover, the Act is a self-contained code in itself which provides procedures for filing claims, for passing of award and for preferring an appeal. Even, the limitations for preferring the remedies are contained in the code itself.

9. The interpretation of a beneficial legislation must be remedial and must be in furtherance with the purpose which the statute seeks to serve. The aforesaid view has been reiterated by this court on multiple occasions wherein this court has highlighted the importance acknowledging legislative intention while interpreting the provisions of the statute. This court in the case of *Bombay Anand Bhavan Restaurant v. Deputy Director, Employees State Insurance Corporation.*, (2009) 9 SCC 61 while interpreting the provisions of the Employees State Insurance Act held that it being a beneficial legislation should receive a liberal construction so as to promote its objectives. This court held therein:

“20. The Employees’ State Insurance Act is a beneficial legislation. The main purpose of the enactment as the Preamble suggests, is to provide for certain benefits to employees of a factory in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto. The Employees’ State Insurance Act is a social security legislation and the canons of interpreting a social legislation are different from the canons of interpretation of taxation law. The courts must not countenance any subterfuge which would defeat the provisions of social

legislation and the courts must even, if necessary, strain the language of the Act in order to achieve the purpose which the legislature had in placing this legislation on the statute book. The Act, therefore, must receive a liberal construction so as to promote its objects.” (emphasis supplied)

10. Similarly, this Court in the case of *Vimla Devi v. National Insurance Co. Ltd.*, (2019) 2 SCC 186 while interpreting the provisions of the Act held that strict compliance of procedures can be relaxed in order to ensure that victims receive just compensation. This court observed therein:

“15. At the outset, we may reiterate as has been consistently said by this Court in a series of cases that the Act is a beneficial piece of legislation enacted to give solace to the victims of the motor accident who suffer bodily injury or die untimely. The Act is designed in a manner, which relieves the victims from ensuring strict compliance provided in law, which are otherwise applicable to the suits and other proceedings while prosecuting the claim petition filed under the Act for claiming compensation for the loss sustained by them in the accident.” (emphasis supplied)

11. While keeping in view, the general nature of the legislation, it is pertinent for us to have a look at Section 173 of the Act which reads as under:

173. Appeals. — (1) Subject to the provisions of sub-section (2), any person aggrieved by an award of a Claims Tribunal may, within ninety days from the date of the award, prefer an appeal to the High Court:

Provided that no appeal by the person who is required to pay any amount in terms of such award shall be entertained by the High Court unless he has deposited with it twenty-five thousand rupees or fifty per cent of the amount so awarded, whichever is less, in the manner directed by the High Court:

Provided further that the High Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time. (2) No appeal shall lie against any award of a Claims Tribunal, if the amount in dispute in the appeal is less than ten thousand rupees.

(emphasis supplied)

12. Section 173 provides that, any person aggrieved by the award passed by the Tribunal may approach the High Court within ninety days. However, the second proviso states that the High Court “may” still entertain such appeal even after the expiry of ninety days, if the appellant satisfies the Court that there exists sufficient reason behind the delay.

13. Ordinarily, the word “may” is not a word of compulsion. <sup>1</sup> It is an enabling word and it only confers capacity, power or authority and implies discretion.<sup>2</sup> “It is used in a statute to indicate that

something may be done which prior to it could not be done”.<sup>3</sup>

14. The legislature by usage of the word “may” in Section 173 of the Act, conferred sufficient discretionary powers upon the Court to entertain appeals even beyond the period of ninety days. The pertinent issue before us relates to what the extent of such discretionary power is.

15. In order to understand the extent of conferment of power by the usage of the word “may”, we may observe *Official Liquidator v. Dharti Dhan (P.) Ltd.*, (1977) 2 SCC 166, wherein this Court held:

“10. The principle laid down above has been followed consistently by this Court whenever it has been contended that the word “may” carries with it the obligation to 1 Justice G.P. Singh in *Principles of Statutory Interpretation*, 14th Edn., page 519 2 *Chinnamarkathian alias Muthu Gounder v. Ayyavoo alias Periana Gounder*, (1982) 1 SCC 159 3 *Madanlal Fakirchand Dudhediya v. Shree Changdeo Sugar Mills Ltd.*, 1962 Supp (3) SCR 973 exercise a power in a particular manner or direction. In such a case, it is always the purpose of the power which has to be examined in order to determine the scope of the discretion conferred upon the donee of the power. If the conditions in which the power is to be exercised in particular cases are also specified by a statute then, on the fulfilment of those conditions, the power conferred becomes annexed with a duty to exercise it in that manner” (emphasis supplied)

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.

17. Secondly, it has been held that if the specific conditions wherein the power could be exercised is also provided in the statute, then the Court must exercise the aforesaid discretion in the manner as specified by the statute itself. In the second proviso to Section 173 it is stated that Court has the power to condone delay only if it is satisfied that there existed “sufficient cause”.

18. At this juncture, we need to interpret the term “sufficient cause” as a condition precedent for the granting of the discretionary relief of allowing the appeal beyond the statutory limit of ninety days. Although this Court has held that provisions of the Limitation Act, 1963 does not apply while deciding claims under the Motor Vehicles Act, but it is relevant to note that even while interpreting “sufficient cause” under the Limitation Act Courts have taken a liberal interpretation. This Court in the case of *Perumon Bhagvathy Devaswom, Perinadu Village v. Bhargavi Amma (Dead) by LRs*, (2008) 8 SCC 321, observed that:

“13....The words “sufficient cause for not making the application within the period of limitation” should be understood and applied in a reasonable, pragmatic, practical

and liberal manner, depending upon the facts and circumstances of the case, and the type of case. The words “sufficient cause” in Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice, when the delay is not on account of any dilatory tactics, want of bona fides, deliberate inaction or negligence on the part of the appellant.” (emphasis supplied)

19. The aforesaid view was reiterated in the case of Balwant Singh (Dead) v. Jagdish Singh, (2010) 8 SCC 685, wherein this Court held that:

“25. We may state that even if the term “sufficient cause” has to receive liberal construction, it must squarely fall within the concept of reasonable time and proper conduct of the party concerned. The purpose of introducing liberal construction normally is to introduce the concept of “reasonableness” as it is understood in its general connotation.

26. The law of limitation is a substantive law and has definite consequences on the right and obligation of a party to arise.

These principles should be adhered to and applied appropriately depending on the facts and circumstances of a given case.

Once a valuable right has accrued in favour of one party as a result of the failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or inaction of that party. Justice must be done to both parties equally. Then alone the ends of justice can be achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law as a result of his acting vigilantly.” (emphasis supplied)

20. The Court in the above-mentioned cases, highlighted upon the importance introducing the concept of “reasonableness” while giving the clause “sufficient cause” a liberal interpretation. In furtherance of the same, this Court has cautioned regarding the necessity of distinguishing cases where delay is of few days, as against the cases where the delay is inordinate as it might accrue to the prejudice of the rights of the other party. In such cases, where there exists inordinate delay and the same is attributable to the party’s inaction and negligence, the Courts have to take a strict approach so as to protect the substantial rights of the parties.

21. The aforesaid view was taken by this Court in the case of Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai, (2012) 5 SCC 157 wherein the Court held that:

“23. What needs to be emphasised is that even though a liberal and justice-oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the

judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost.

24. What colour the expression “sufficient cause” would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay.” (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 be 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 time-limit 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 supplied) 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.

23. 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.

24. 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.

25. In view of the above, the appeal is allowed and the impugned order of the High Court is set aside. As the adjudication on the merits of the case has not taken place, we remand the matter to the said Court for fresh consideration on merits.

26. Taking into consideration the fact that the appeal is of the year 2014, we request the High Court to dispose of the same within a period of six months from the date of communication of this order.

.....J (N.V. RAMANA) .....J (S.ABDUL NAZEER)  
.....J (SURYA KANT) NEW DELHI;

AUGUST 07, 2020.