

## Naresh Kumar Sharma Vs Smt. Anarkali and Others

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** Oct. 8, 2013

**Hon'ble Judges:** Vijender Singh Malik, J

**Bench:** Single Bench

**Advocate:** R.S. Bains, for the Appellant;

### Judgement

Vijender Singh Malik, J.

This appeal by the owner of the offending car against the award dated 22.3.2011 passed by learned Motor

Accidents Claims Tribunal, Chandigarh (for short, "the Tribunal") has been brought with an application u/s 5 of the Limitation Act seeking

condonation of delay of 793 days in filing the appeal The impugned award was passed by learned Tribunal on 22.3.2011. Respondents No. 3 to

7 had already filed an appeal bearing FAO No. 4355 of 2011 pending for hearing on 16.8.2013. The present appeal was not filed within the

period of 90 days, prescribed as limitation for the same, because the appellant is a man of little resources and he could not arrange money to file

the appeal. He also had to make arrangement for Rs. 25,000/- to comply with the provisions of section 173 of the Motor Vehicles Act, 1988 [for

short, "the Act"] and also to arrange fee for the counsel. After making arrangements for the same, he approached the office of a lawyer and was

advised to file a counter-claim in the appeal filed by the claimants. Thus, he waited for the notice in the appeal filed by the claimants. He rushed to

file this appeal only when notice of the appeal was received by him and thus, a delay of 793 days had occurred. It is claimed that wrong advice

was given to him and for that reason, the filing of the appeal got delayed by 793 days. He has further submitted that the delay is bona fide and

deserves to be condoned. The application is supported by an affidavit of the appellant.

2. Learned counsel for the appellant has made submissions based on the averments contained in the application and has prayed for condonation of

delay.

3. The averments contained in the application, supported by learned counsel for the appellant, are not believable. The appellant is owner of the

offending car. That fact itself goes against his claim that he is a man of little resources and he took time to arrange money for complying with the

provisions of section 173 of the Act and for payment of fee of the counsel. He has not dared to disclose as to whom he contacted for filing the

appeal. Here, the appellant has gone silent about the name of the advocate, who gave him the advice. What was the reason with the appellant not

to act upon the said advice or to say that the said advice was wrong, is not disclosed in the application. Delay of 793 days in filing the appeal is a

very huge delay. The appellant did not even mention in the application as to on which date he received notice of the appeal filed by the claimants.

4. For all these reasons, I find that the application contained allegations are indefinite and vague and they do not inspire confidence. Hence, I

dismiss the application. In view of the aforesaid discussion, the appeal being barred by limitation is dismissed.