

THE  
ALL PAKISTAN LEGAL DECISIONS

[LAHORE HIGH COURT]

P L D 2026 Lahore 1

Before Aalia Neelum, C.J.

Dr. TALAL KHURSHID BHATTI---Petitioner

versus

The PUNJAB HEALTHCARE COMMISSION  
and others---Respondents

Writ Petition No.1873 of 2022, decided on 24th September, 2025.

**(a) Punjab Healthcare Commission Act (XVI of 2010)---**

**---S.23(2)---Constitution of Pakistan, Art.199---Medical negligence---  
Complaint before the Punjab Healthcare Commission (PHC), filing of---  
Limitation---PHC dismissing the complaint as time barred, challenge  
to---Worsening of an injury due to medical negligence providing  
recurring or continuing cause of action, plea of---Scope and  
applicability---Section 23(2) of the PHC Act, 2010 prescribing a  
sixty-day limitation computed from the "date of knowledge"---Statutory  
framework---Date of knowledge, determination of---Whether subsequent  
diagnostic findings or expert opinions of doctors can extend or revive  
limitation---Brief facts of the matter were that the petitioner underwent  
a surgical procedure performed by respondent No.3 at Doctor's  
Hospital, Lahore in September 2018 and was subsequently diagnosed  
with a 'rotator cuff tear' at the same operative site---As asserted by the  
petitioner, he approached PHC in June 2021 on the premise that the  
cause of action was recurring in nature, contending that the injury  
which had been attributed to the alleged medical negligence not only  
persisted but had progressively worsened---He further maintained that  
the complaint was instituted only upon obtaining what he considered**

PLD

conclusive medical evidence substantiating the respondent doctor's negligence---PHC, however, dismissed the complaint as time-barred under S. 23(2) of the Punjab Healthcare Commission Act, 2010 (PHC Act) citing sixty-day limitation period from the date of knowledge of cause of action---Pivotal question requiring determination before the High Court was as to "whether, in the circumstances of the present case, the petitioner's asserted cause of action constituted a recurring or continuing cause of action so as to extend the limitation period, or whether the limitation prescribed under S. 23(2) of the PHC Act was applicable stricto sensu from the date of knowledge?"---Held: In para No. 27 of the complaint the petitioner himself submitted that the cause of action in the instant matter initially accrued on 13.09.2018 when the negligent surgery was performed by respondent doctor, thereafter, accrued on 19.10.2019 when the IM Nail was removed through another surgery where the tear to the rotator cuff could have been observed and treated---Petitioner filed a complaint on 11.06.2021, and in para 27, the cause of action was stated to have accrued---Para No. 27 stated that "the cause of action in the instant matter initially accrued on 13.09.2018 when the negligent surgery was performed, thereafter accrued on 19.10.2019 when the IM Nail was removed through another surgery where the tear to the rotator cuff could have been observed and treated; thereafter, the cause of action has been recurring as the rotator cuff tear caused by negligent surgeries still exists and has worsened, as also acknowledged by different consultants through their expert opinions, and keeps on worsening each day by agonizing and distressing the complainant as well as interfering in the complainant's daily routine work being a professional doctor in Gastrointestinal Endoscopy; the cause of action is de die in diem"---The petitioner had already explicitly stated that the cause of action was accrued on 13.09.2018, when the negligent surgery was performed by respondent doctor and thereafter on 19.10.2019, when the IM Nail was removed during another surgery, both of which were time-barred by 31 months and 13 months, respectively---The counsel for the respondent doctor submitted that the petitioner also filed "suit for damages for Rupees 500,000,000/- (50Crore) on account of medical negligence before the civil courts at Lahore on 04.10.2021, wherein in para 27, the exact cause of action was mentioned---If the cause of action was considered to have accrued on 13.09.2018 and 19.10.2019, respectively, as narrated in the complaint, which was filed with the Punjab Healthcare Commission on 11.06.2021, then the complaint was filed with a delay of 31 months and 13 months, respectively, excluding the period of filing the complaint, i.e., 60 days---If the dates of cause of action were taken from the reply submitted by the petitioner before the PHC, i.e., 07.06.2020, when the x-ray was received, and the expert opinions obtained by the petitioner dated 17.07.2020, and 05.08.2020,

respectively, then the delays became 10 months, 9 months, and 8 months, respectively, excluding the period of filing the complaint---In any eventuality, the complaint before the PHC was time-barred---The dates that the petitioner mentioned in his reply to the application of respondent doctor were already in the knowledge of the petitioner at the time of submitting the complaint, still he did not mention it in his complaint---He did not even mention this fact in the "suit for damages"---Petitioner was a doctor by profession and was aware of the harm he had suffered---However, he continued to try to justify his delay by consulting various doctors, and based on their opinions, it could not be determined whether the complaint was filed on time---Therefore, the PHC had rightly disposed of the petitioner's complaint by ruling that the complaint was time-barred---There was no illegality or legal infirmity in the impugned order passed by the PHC warranting interference by the High Court---Constitutional petition was dismissed, in circumstances. [pp. 5; 6] A, B, C & E

**(b) Limitation Act (IX of 1908)---**

---S.5---Punjab Healthcare Commission Act (XVI of 2010), S.23(2)---  
Condonation of delay, seeking of---Prerequisite---Sufficient cause---  
Condonation of delay is not a matter of right, and the petitioner has to  
set out the case showing sufficient reasons that prevented him from  
seeking the prescribed remedy within the stipulated period of limitation.  
[p. 6] D

**Usman Nasir Awan and Raheel Riaz for Petitioner.**

Waqas Umar, A.A.G.

Muhammad Tahir-ul-Islam, Law Officer for the Punjab Health  
Care Commission/Respondents Nos. 1 and 2.

Ch. Ishtiaq Ahmad and Munir Ahmad Malik for Respondent  
No.3.

**ORDER**

AALIA NEELUM, C.J.---Through instant petition under  
Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973,  
the petitioner has made the following prayers:-

*"In view of the above, it is most respectfully prayed that the  
Impugned Order dated 24.09.2021 passed by respondent No.2  
may be declared as illegal and void and the same may kindly be  
set aside.*

*It is further prayed that by holding the complaint of the  
petitioner as within time, a direction may also be given to the*

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*respondent authority (Punjab Healthcare Commission) to initiate the investigation against the respondent No.3 upon complaint filed by the petitioner in accordance with the mandate of the Punjab Healthcare Commission Act, 2010."*

2. In brief, the essential facts for disposing of this petition are that on 11.06.2021, the petitioner filed a complaint against respondent No.3 (Dr. Kamran Butt) with the Punjab Healthcare Commission, claiming that on 12.09.2018, he was admitted to Doctors Hospital and Medical Centre for surgery on his left shoulder. The respondent No.3 visited and diagnosed a humerus implant failure and suggested surgery. Subsequently, respondent No.3 performed surgeries on the petitioner on 13.09.2018 and 19.10.2019. The petitioner filed a complaint against respondent No.3 with the PHC, alleging maladministration, malpractice, and medical negligence. The Commission took notice and issued a summons to respondent No. 3. In response, respondent No. 3 filed an application on 14.07.2021, claiming that the complaint was barred by time under section 23(2) of the Punjab Healthcare Commission Act, 2010. After hearing the parties, respondent No. 2 disposed of the complaint, declaring it time-barred, vide order dated 24.09.2021. Aggrieved, the petitioner appealed to the learned District and Sessions Judge, Lahore, but the appeal was dismissed. Therefore, this petition.

3. Learned counsel for the petitioner submitted that, as per section 23(2) of the Punjab Healthcare Commission Act, 2010; the limitation to file a complaint is within 60 days, which starts from the date of knowledge of the cause of action. Further submitted that the PHC wrongly inferred the date of knowledge of the cause of action; added that the complaint filed by the petitioner was well within time and the same was not time-barred, and prayed for acceptance of the instant petition.

4. Conversely, learned counsel for respondent No.3 and learned law officer representing respondents Nos. 1 and 2 submitted that the complaint filed by the petitioner was time-barred; the order has rightly been passed, and they prayed for dismissal of the instant petition.

5. Heard. Record perused.

6. On perusal of the record, it reveals that the petitioner filed a complaint with the Punjab Healthcare Commission against respondent No.3 on 11.06.2021, wherein notices were issued to the parties. In response to the notice, respondent No. 3 filed an application on 14.07.2021 before the Punjab Healthcare Commission, alleging that the complaint is time-barred. The Punjab Healthcare Commission sought a

reply from the petitioner to the said application. The petitioner submitted a reply on 09.08.2021, contending that the complaint is not time-barred. In Para No.27 of the complaint (available at Page-33 of instant petition), the petitioner himself submitted that the cause of action in the instant matter initially accrued on 13.09.2018 when the negligent surgery was performed by Dr. Kamran Butt, thereafter, accrued on 19.10.2019 when the IM Nail was removed through another surgery where the tear to the rotator cuff could have been observed and treated. A

7. Subsequently, when the question of limitation was taken by respondent No.3, the petitioner filed a reply to the application of respondent No.3, wherein he introduced three different dates, i.e., 07.06.2020, when the X-ray of the Islamic Diagnostic Centre was received, and the expert opinions obtained by the petitioner from Dr. Muhammad Waseem and Dr. Mustafa Javed Bhalli dated 17.07.2020, and 05.08.2020 respectfully. It is relevant to mention that the petitioner filed a complaint on 11.06.2021, and in para 27, the cause of action was stated to have accrued. Para No. 27 reads as follows:--

"27. That the cause of action in the instant matter initially accrued on 13.09.2018 when the negligent surgery was performed by Dr. Kamran Butt, thereafter accrued on 19.10.2019 when the IM Nail was removed through another surgery where the tear to the rotator cuff could have been observed and treated. Thereafter, the cause of action has been recurring as the rotator cuff tear caused by negligent surgeries performed by Dr. Kamran Butt still exists and has worsened, as also acknowledged by different consultants through their expert opinions, and keeps on worsening each day by agonizing and distressing the complainant as well as interfering in the complainant's daily routine work being a professional doctor in Gastrointestinal Endoscopy. The cause of action is De Die In Diem." B

The petitioner had already explicitly stated that the cause of action was accrued on 13.09.2018, when the negligent surgery was performed by Dr. Kamran Butt, and thereafter on 19.10.2019, when the IM Nail was removed during another surgery, both of which were time-barred for 31 months and 13 months, respectively. The learned counsel for the respondent No. 3 submitted that the petitioner also filed "suit for Damages for Rupees 500,000,000/- (50 Crore) on account of medical negligence" titled Dr. Talat Khurshid Bhatti versus Dr. Kamran But before the civil courts at Lahore on 04.10.2021, wherein in para 27, the

exact cause of action was mentioned. The learned counsel for the petitioner is unable to rebut it. Before proceeding further, for ready reference, Section 23(2) of the Punjab Healthcare Commission Act, 2010 is reproduced hereunder:-

**Section 23**

(1) -----

(2) **An aggrieved person may, within sixty days from the date of knowledge of the cause of action, file a complaint against a healthcare service provided or healthcare establishment by submitting an application in writing supported by an affidavit of the aggrieved person.**

(3) -----

If we consider the cause of action accrued on 13.09.2018 and 19.10.2019, respectively, as narrated in the complaint, which was filed with the Punjab Healthcare Commission on 11.06.2021, then the complaint was filed with a delay of 31 months and 13 months, respectively, excluding the period of filing the complaint, i.e., 60 days. If the dates of cause of action are taken from the reply submitted by the petitioner, i.e., 07.06.2020, when the X-ray of the Islamic Diagnostic Centre was received, and the expert opinions obtained by the petitioner from Dr. Muhammad Waseem and Dr. Mustafa Javed Bhalli dated 17.07.2020, and 05.08.2020, respectively, then the delays become 10 months, 9 months, and 8 months, respectively, excluding the period of filing the complaint. In any eventuality, the case is time-barred as mentioned above. The dates that the petitioner mentioned in his reply to the application of respondent No. 3 were already in the knowledge of the petitioner at the time of submitting the complaint. Still, he did not mention it in his complaint. He did not even mention this fact in the "suit for Damages". Admittedly, the petitioner subsequently introduced dates on which he received opinions from Dr. Muhammad Waseem and Dr. Mustafa Javed Bhalli, dated 17.07.2020 and 05.08.2020, respectively, when respondent No. 3 raised a plea that the complaint was barred by limitation. This cannot be considered sufficient cause to seek condonation of the delay in the filing of the complaint. Condonation of delay is not a matter of right, and the petitioner has to set out the case showing sufficient reasons that prevented him from coming to the Commission within the stipulated period of limitation. It is a fact that the petitioner is a doctor and is aware of the harm he has suffered. However, he continued to try to justify his delay by consulting various doctors, and based on their opinions, it cannot be determined whether the complaint was filed on time. Therefore, the commission has rightly disposed of the petitioner's complaint by ruling that the

PLD

case is time-barred. The learned counsel for the petitioner has failed to point out any illegality or legal infirmity in the impugned order dated 24.09.2021, passed by the Punjab Healthcare Commission, warranting interference by this Court.

8. Given the above, the instant petition stands dismissed.

UN/T-19/L

Petition dismissed.

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P L D 2026 Lahore 7

Before Mirza Viqas Rauf, J.

AHMED AMIN through attorney---Petitioner

versus

DISTRICT JUDGE, ATTOCK

and 2 others---Respondents

Writ Petition No. 2787 of 2019, decided on 2nd June, 2025.

**(a) Family Courts Act (XXXV of 1964)---**

**---Ss. 14, 17 & 26---Family Courts Rules, 1965, Rr. 12 & 22---  
Constitution of Pakistan, Art.199---Appeal against judgment of family  
court dismissed for non-prosecution---Filing of Constitutional petition  
instead of seeking restoration of appeal---Legality---Exclusion of the  
provisions of C.P.C. in proceedings before the family court, plea of---  
Despite the exclusion of provisions of C.P.C. family courts are not  
precluded to invoke provisions of C.P.C. for securing the ends of  
justice---Appellate court having the power to restore appeal dismissed  
for non-prosecution---Fact in brevity were that the petitioner challenged  
the dismissal of his appeal for non-prosecution through the present  
Constitutional petition under Art. 199 of the Constitution---The original  
suit, filed by respondent No. 3 (his wife), involved claims for  
dissolution of marriage on the basis of khula, recovery of dower,  
maintenance, dowry articles, and gold ornaments, which the family  
court decreed in her favor---The petitioner's appeal against family  
court's decision was dismissed for non-prosecution by the District  
Judge--- Instead of seeking restoration of appeal before the appellate  
court, the petitioner filed the instant constitutional petition---Pivotal  
question for determination by the High Court was as to "Whether a  
party whose appeal under S. 14 of the Family Courts Act, 1964 was  
dismissed in default could invoke the constitutional jurisdiction of High  
Court under Article 199 of the Constitution against the said order.  
instead of moving an application for re-admission of appeal before the**