

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No.3823 of 2012 (O&M)

Date of Decision: 09.02.2015

Meena and others

....Appellants

v.

Lukman and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Parminder Singh, Advocate for the appellants.

Mr. Chandeeep Singh, Advocate for Mr. Sandeep K. Sharma,
Advocate for respondent No.2.

Mr. Ashish Yadav, Advocate for respondent No.3.

Navita Singh, J.

C.M. No.16216-CII of 2012

The appeal was filed with a delay of 198 days. The reason given is that though copy of the award was received by the appellants after one week of passing of the same, they could not contact the counsel and get knowledge about the filing of the appeal and that is why the delay occurred. After the death of Govind Dass, the family had become shelterless and could not approach the counsel earlier.

Reply has been filed by respondent No.3 which is taken on record. It is rightly mentioned in the reply, as is also submitted orally by counsel for respondent No.3, that the appellants were aware and could file the clam petition soon after the death of Govind Dass but could not file the appeal in time due to shock, does not seem to be valid explanation.

The accident took place on 22.1.2009 and the claim petition

was filed on 2.3.2009.

The submission made by counsel for the appellants that the heirs of deceased Govind Dass were under shock and, therefore, could not engage a counsel and file the appeal in time is not at all acceptable because the appellants should have been under greater shock after the accident but in order to claim compensation they were able to file the claim petition within one month and ten days after the accident. The reason clearly was that they filed the claim petition to get money. It is, therefore, not believable that after two years of filing of the claim petition, they were not in a position to file appeal as they were under shock.

In every case, delay is not to be condoned on the ground that the matter should not be dismissed on account of technicalities. Facts of each case have to be considered and intention of the parties is to be seen. In certain cases, much larger delay is condoned where explanation is satisfactory whereas in other cases delay of short period is also ignored. The application is dismissed.

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Since the appeal is time barred, the same is also dismissed.

**(NAVITA SINGH)
JUDGE**

February 09, 2015
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Whether to be referred to the Reporter? Yes.