

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**FAO No.1069 of 2015 (O&M)
Date of Decision: 30.07.2015**

Suryodhya High School

.....Appellant

Versus

United India Insurance Co. Ltd. and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. A.K.Sharma (Bhana), Advocate,
for applicant-appellant.

Mr. Rohit Ghoswami, Advocate for
Mr. Vinod Chaudhri, Advocate,
for respondent No.1.

SHEKHER DHAWAN, J

CM No.2854-CII of 2015

Prayer has been made in the application under Section 5 of Limitation Act for condonation of 325 days in filing the appeal.

2. Relevant facts for the purpose of decision of the present application that claim petition was filed before Motor Accident Claims Tribunal, Kaithal by claimant Smt. Savitri and others against appellant Suryodhya High School and others as owner of the offending vehicle and United India Insurance Company. The Tribunal after considering the

material and evidence available on file pronounced award against appellant-respondent no.1 and appellant was held liable to satisfy the award.

3. In the present application, applicant has taken the plea that delay of 325 days be condoned on the ground that applicant is a school represented through Headmaster. In fact Roshan Lal , Headmaster was having the knowledge of the case. On 16.12.2013 said Headmaster Roshan Lal left his job. Except him nobody was having knowledge about the ongoing litigation before The Tribunal. Subsequently Mr. Vijender Singh was appointed as Headmaster of School. Later on in routine pending work of school was distributed. Applicant-school became financially weak and was required to deposit ₹25,000/- before filing the appeal before this Court. Hence, because of this non-awareness and non-availability of any document there was delay of 325 days in filing the appeal which was neither intentional nor deliberate and delay of 325 days in filing the appeal be condoned. Learned counsel for applicant-appellant placed reliance upon judgment of this Court in case **Saroj and others Vs. Baljeet Singh and another 2010(3) RCR (Civil) 929** where delay of 447 days in filing appeal was condoned.

4. In reply respondent took the plea that the parties seeking condonation of delay has to show that they are acting in bona fide manner and they had taken all steps within their competence to pursue the case. There are no ground to condone the delay in the present case. More so financial weakness is no ground to condone the delay. So the application be dismissed.

5. Having considered the rival submissions made by learned counsel for the parties and facts of this case, I am of the considered view that for

condonation of delay, each and every case has its own merits. But the case in hand is without any justifiable ground for condonation of delay of 325 days. It is mainly because of the facts, firstly that award was pronounced in the presence of counsel for the applicant. Secondly the applicant-school cannot reasonably took the plea that they were illiterate person and it is not expected from such an institute to take the plea that they were not aware of such legal aspects. More so, it is not expected from school that even after the date when Roshan Lal left the job as Headmaster, work was not distributed immediately so as to avoid any legal complication or to take up the important cases on priority manner. There is absolutely nothing in the application that what was the actual date when Roshan Lal left the school and when the new incumbent joined the office. In the present case it does not sound to the reasoning that applicant-school was not in a position to arrange a sum of ₹25,000/- so as to file the appeal.

6. In view of the above facts of the case in hand there are distinguishable from the facts of the above referred case **Saroj and others Vs. Baljeet Singh and another P&H.**

7. Similar matter had also gone before Co-ordinate bench of this Court in case **The New India Assurance Company Ltd. Vs. Smt. Pinki & Ors. 2010(4) RCR (Civil) 337** where this Court observed that condonation of delay can be ordered only if there is sufficient cause for the same and in the said case even delay of 127 days was not condoned. Similar view was taken by Co-ordinate Bench of this Court in cases **Jimmy Travels Vs. Lakhwinder Singh 2013 ACJ 1420, Mool Chand Yadav @ Ashok Vs. Phool Singh and another 2010(5) RCR (Civil) 8.**

8.

In view of the above, no ground is made out for condonation of

delay of 325 days in filing the appeal, hence the application stands dismissed.

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9. In view of the order passed in CM No.2854-CII of 2015, present
FAO stands dismissed.

**(SHEKHER DHAWAN)
JUDGE**

July 30, 2015
msd