

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1326 of 2015 (O&M)
Date of Decision: March 11, 2015

Chief Manager, R.S.R.T.C., Churu Depot

...Appellant

Versus

Kavita and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Anil Kumar Gahlawat, Advocate
 for the appellant.

INDERJIT SINGH, J.

Appellant Chief Manager, R.S.R.T.C., Churu Depot has filed this appeal against Kavita respondent and Mahabir Singh proforma-respondent challenging the award dated 14.05.2013 passed by learned Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'Tribunal'), vide which the claim of ₹3,19,083/- along with interest @ 6% per annum from the date of institution of claim petition till realization has been awarded to the claimant-respondent No.1 on account of injuries suffered by her in a motor vehicular accident, which took place on 29.09.2011.

Along with the appeal, an application under Section 5 of the Limitation Act for condonation of delay of 526 days in filing the appeal has also been filed. It is stated in the application that present appeal was to be filed by earlier counsel of the appellant namely

Sh.Sandeep Singh Sangwan. However, the then counsel did not file the appeal and therefore, delay of 526 days in filing the appeal occurred, which is neither intentional nor wilful. Rather, it was caused due to the said bonafide mistake on the part of applicant-appellant.

I have gone through the application.

Though, the law regarding condonation of delay is liberal but the present application for condoning the delay shows that there is delay of 526 days and no cogent explanation has been given for condoning the delay. The mere fact that earlier counsel was to file the appeal and he had not filed the same, is no ground for the condonation of delay. There is no such document on the record to show that at any stage decision was taken by the competent authority to get the appeal filed from the counsel named in the application. The mere saying that the counsel was to file the appeal and he has not filed the same, it cannot be held that applicant-appellant has given good/satisfactory explanation for the delay. This delay of 526 days is not duly explained and it looks that there is gross negligence on the part of the appellant in filing the appeal.

Therefore, finding no merit in the application under Section 5 of the Limitation Act, the same is dismissed.

However, on merit also, I have heard counsel for the appellant and have gone through the record.

The brief facts of the case are that on 29.09.2011, Jasbir Singh (since deceased) along with Kavita (respondent No.1) was going to Bhiwani for the medical examination of Kavita on motorcycle

bearing registration No.HR-16D-6869. When they reached near Kartikai Petrol Pump, Jui Kalan on Loharu-Bhiwani road, in the meantime, a bus bearing registration No.RJ-10PA-1548 being driven by respondent No.1 in a rash and negligent manner and at high speed, came from Bhiwani and struck against the motorcycle. Due to impact of the accident, Jasbir and Kavita fell down on the road and sustained multiple and grievous injuries on their person. Jasbir succumbed to his injuries at the spot. Regarding this accident, FIR No.434 dated 29.09.2011 under Sections 279, 337 and 304-A IPC was registered at police station Sadar Bhiwani.

At the time of arguments, learned counsel for the appellant simply argued that excessive amount has been awarded by the Tribunal.

Learned counsel for the appellant has not argued on any point as to how the amount so awarded has been given in excess by the Tribunal. The mere argument that amount has been awarded in excess without showing anything and without pointing anything specifically in the award, has no force for admitting the appeal. No other point regarding rash and negligent driving or any other thing has been argued before this Court.

The perusal of the award dated 14.05.2013 and in view of the arguments of learned counsel for the appellant, I do not find any merit in the present appeal and therefore, the same is dismissed also on merits.

March 11, 2015

Vgulati

**(INDERJIT SINGH)
JUDGE**