

**208 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**FAO No.2004 of 2014 (O&M)
Date of Decision: June 29, 2015**

Smt. Phool Mizra and others

.... Appellants

vs.

Hari Kishan and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Saleem Ahmed, Advocate for the appellants.

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.(Oral)

Impugned in the present appeal is the order dated 29.10.2010 passed by the Commissioner under the Employee's Compensation Act, 1923, Mewat. Along with appeal an application under Section 5 of the Limitation Act has been filed for condonation of delay of 1137 days in filing the present appeal.

It is stated that certified copy of the order was supplied to the counsel before the trial court. The appellant was told by the counsel that he has filed the appeal but he had not actually filed the appeal. Ultimately, when the status was checked on 05.07.2011, it was found that the appeal was not filed by the counsel as the appellant had not paid the fee to the counsel. The fee was given on 28.08.2013 and the appeal was filed on 07.02.2014.

I am of the view that the application for condonation of delay merits dismissal. In the application, it is nowhere mentioned that the appellant was unable to pay the fee of the counsel due to financial constraints and that he took time to arrange the money. His plea is that he asked the trial court counsel to file the appeal and he was told that the appeal had been filed. Otherwise also, in this case, the appellant, who was aged about 25 years was awarded compensation considering his income @ ₹1550/- per month, which was multiplied with the relevant factors. The accident is of the year 1997. In this case, interest of ₹1,81,553/- has also been allowed in addition to the funeral expenses and some other expenses. Total compensation of ₹3,57,158/- (rupees three lac fifty seven thousand one hundred fifty eight only) was allowed.

Learned counsel for the appellant has contended that the Executing Court did not allow him any interest.

If it is so, it is always open to the appellant to challenge the order of the Executing Court. However, there are no merits in the present appeal. Consequently the application for condonation of delay of 1137 days in filing the present appeal as well as the main appeal stand dismissed.

June 29, 2015
sarita

(KULDIP SINGH)
JUDGE