

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

**1. CM-12470-CII-2015 in/and
FAO No.3971 of 2015 (O&M)
Date of Decision: July 06, 2015**

Jaswinder Singh and another .. Appellants

vs.

United India Insurance Company and others .. Respondents

**2. CM-12473-CII-2015 in/and
FAO No.3972 of 2015 (O&M)
Date of Decision: July 06, 2015**

Jaswinder Singh and another .. Appellants

vs.

United India Insurance Company and others .. Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Sanjay Jain, 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.

By this order, I will dispose of CM No.12470-CII of 2015 for condonation of delay of 1482 days in filing FAO No.3971 of 2015 and CM No.12473-CII of 2015 for condonation of delay of 1482 days in filing FAO No.3972 of 2015 along with the main appeals i.e. FAO Nos.3971 and 3972 of 2015 .

The aforesaid appeals have been filed by the owner and driver of the offending vehicle against the Award dated 06.01.2011 passed by the Motor Accident Claims Tribunal, Ludhiana (in short 'the Tribunal').

Copy of the Award shows that while passing the impugned Award, the Tribunal granted recovery rights to the Insurance Company. The present appellants were ex parte before the Tribunal.

A perusal of the impugned Award further shows that respondent Nos.1 and 3 (appellants herein) filed their separate written statements before slipping away from the proceedings. Thereafter, it comes out that in the execution petition No.Exe/0037402 of 2013, the Insurance Company paid the entire amount and the execution petition was dismissed as satisfied on 24.09.2014. In the execution proceedings, the present appellants were putting in appearance.

Learned counsel for the appellants contends that now the Insurance Company has filed the execution petition against the present appellants and they have come to know that in the Award passed by the Tribunal, recovery rights were given to the Insurance Company. It has been further argued that with the written statement, a driving licence was filed by the driver.

The lack of knowledge of passing of the Award is not a convincing argument since both the appellants had filed their separate written statements and were aware of the proceedings.

They slipped away from the proceedings but in the execution petition, they were appearing. Therefore, it cannot be said that they were not aware of the order passed in the claim petition that recovery rights have been given to the Insurance Company. Now a period of more than four years have elapsed and the appellants woke up when the Insurance Company has filed the execution application against them.

I am of the view that this is not a sufficient ground to condone such huge delay.

Learned counsel for the appellants has relied upon the authority of ***“Collector, Land Acquisition, Anantnag and another vs Mst. Katiji and others”*, AIR 1987 Supreme Court 1353**. The reliance has been placed on the observations of Hon'ble the Apex Court that refusing to condone the delay can result in the meritorious matter being thrown out at the very threshold and cause of justice being defeated.

I am of the view that it depends upon the facts of each case. If there is a short delay, the matter can be considered. However, if such a huge delay is condoned on frivolous ground then that would have the effect of disregarding the Limitation Act. Therefore, I do not find any reason to condone the delay of 1482 days in filing the present appeal. Both the applications for condonation of delay are dismissed. Accordingly, both the appeals also stand dismissed.

July 06, 2015
sarita

(KULDIP SINGH)
JUDGE