

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

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CM No.17015 to 17-CII of 2015 and  
First Appeal Order No.5376 of 2015 (O&M)

Date of Decision: November 28, 2015

Plast Alloys India Ltd., Rewari and another

...Appellants

Versus

Smt. Omwati and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Sarvjit Singh Khurana, Advocate  
for the applicants-appellants.

**AUGUSTINE GEORGE MASIH, J. (ORAL)**

**CM No.17016-CII of 2015**

Prayer in this application is for placing on record certificate of  
Commissioner (Annexure A-1), copy of affidavit in evidence of RW-1  
(Annexure A-2) and deposition of RW-1 (Annexure A-3).

Application is allowed.

Annexures A-1 to A-3 are taken on record subject to all just  
exceptions.

**CM No.17015-CII of 2015 and**  
**FAO No.5376 of 2015**

Prayer in CM No.17015-CII of 2015 is for condonation of  
delay of 354 days in filing the appeal.

The reason assigned for the delay is that the brief was  
misplaced in the office of the counsel when it was being shifted and the  
same was only found on 25.03.2015 and thereafter the appeal was filed on  
08.04.2015. It is not in dispute that initially when the appeal was being  
sought to be filed, the amount of compensation as assessed by the

Commissioner, had not been deposited by the applicants-appellants and, therefore, the appeal could not have been entertained and the said deposit has been made a few days prior to the filing of the appeal.

This inordinate delay of 354 days in filing of the appeal cannot be condoned on this pretext, specially when the applicants-appellants had not fulfilled the mandate of the statute before filing the said appeal initially. The application on this ground deserves dismissal and consequently, the appeal, however, the matter has also been heard at the insistence of the counsel, who asserts that the primary onus was upon the respondents-claimants to show that the accident had taken place not only in the factory premises of the appellants but was as a result of and in connection with the work for which the deceased was employed. He contends that what has been asserted in the application is merely that the death has taken place in the premises of the factory and as to how the same has occurred, the type of accident, the factor thereof and the cause of death has not been mentioned. He, thus, contends that onus having not been discharged by the respondents, the claim should not have been accepted by the impugned order. In support of his contention, he has placed reliance upon the judgment of the Supreme Court passed in the case titled as ***Mackinnon Mackenzie and Co. Private Ltd. Versus Ibrahim Mahommad Issak 1970 AIR (SC) 1906*** as also the judgment of the Bombay High Court (Nagpur Bench) passed in case titled as ***Laxmanrao Versus Maharashtra State Electricity Board 2015 LabLR 260***. He, thus contends that the impugned order deserves to be set aside.

I have heard learned counsel for the appellants and with his assistance, have gone through the order impugned passed by the Commissioner, under the Employees' Compensation Act, 1923, but do not

find myself in agreement with the contention as raised by the counsel for the appellant for the reason that the witness, who had appeared on behalf of the respondents, whose statement has been appended as Annexure A-2 and the cross-examination as Annexure A-3, clearly establishes that deceased Mangal Ram was employed as Security Guard with the appellants on monthly salary of ₹4,600/-. He had died in the factory premises (although this fact has been disputed by the appellants initially by asserting that he was absent from duty on the date the death occurred i.e. 13.03.2011 but no evidence in support thereof has been placed on record). The evidence which has been produced clearly establishes that in the cross-examination, the witness Shri Mahesh Malhotra, Plant Head, has admitted that Shri Mangal Ram deceased had died in an accident which occurred out of and during the course of his employment. It is also admitted that as per the policy of the appellant-company, financial assistance of ₹50,000/- and ₹5,000/- funeral is paid if someone dies during service in the company. The cheque Exhibit P-11 produced by the respondents of ₹50,000/-, which was issued in favour of Omwati-respondent No.1, has been admitted. All this clearly establishes that the findings as recorded by the Commissioner holding that the deceased Mangal Ram died during the course of his employment, cannot be faulted with.

The judgments on which reliance has been placed by the counsel for the appellants and the principles laid out therein cannot be disputed, however, in the facts and circumstances of the present case, the said principles would not be applicable as here there is an admission on the part of the representative of the appellants, who had appeared as a witness before the Commissioner.

It may be added that the amount which has been granted as compensation by the Commissioner is ₹3,63,793/- which also cannot be said to be excessive which would call for any interference by this Court. There is no illegality committed by the Commissioner in the order as the same is in accordance with law.

In view of the above, the present appeal stands dismissed as barred by limitation as also on merits.

In the light of the dismissal of the appeal, the application for stay i.e. CM No.17017-CII of 2015, stands disposed of as infructuous.

**November 28, 2015**  
*Puneet*

**(AUGUSTINE GEORGE MASIH)**  
**JUDGE**