

FAO No. 109 of 2013 (O&M)

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

FAO No. 109 of 2013 (O&M)

Date of Decision: May 04, 2016

Pataso & another

...Appellants

Versus

Mahi Pal & another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Virender Singh Punia, Advocate
for the petitioner-appellant.

None for respondent No.1.

Mr. Banni Thomas, Advocate
for respondent No.2.

AUGUSTINE GEORGE MASIH, J. (Oral):

CM No.452-CII of 2013

Prayer in the application is for condonation of delay in re-filing the appeal.

The reason mentioned in the application for delay is that after filing the appeal, Registry had raised some objections and Clerk of the counsel after receiving back the paper-book, put the same with the papers of some other cases. When the appellant asked about the fate of the case, it has come to the knowledge of the counsel that the appeal has not been re-filed. After removing the objections raised by the Registry, the appeal was re-filed, which has resulted in the delay. It has been stated that the delay is not intentional nor deliberate.

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For the reason mentioned in the application which is duly supported by the affidavit of the Clerk of the counsel, delay in re-filing the appeal stands condoned.

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Prayer in this appeal is limited to the extent that the interest as has been granted vide award dated 01.04.2010, passed by the Commissioner, Workmen's Compensation Act, Circle Kurukshetra, Camp at Kaithal, should have been granted from the date of accident instead of with effect from the date of order till its realization. In support of this contention, counsel for the appellants places reliance upon the judgment of the Supreme Court in **Saberabibi Yakubbbhai Shaikh & others Vs. National Insurance Co. Ltd. & others, 2014 (1) R.C.R. (Civil) 731, para 12**. He, on this basis, contends that the award passed by the Commissioner needs to be modified to the said extent.

On the other hand, counsel for the respondents, submits that the award as passed by the Commissioner is fully justified and does not call for any interference by this Court as the interest which has been granted, has rightly been granted from the date of the order.

I have considered the submissions made by the learned counsel for the parties and keeping in view the judgment passed by the Supreme Court in *Saberabibi Yakubbbhai Shaikh's* case (supra), the interest is to be granted with effect from the date of the accident.

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In view of the above, the award dated 01.04.2010 passed by the Commissioner is hereby modified to the extent that the appellants would be entitled to the interest as granted from the date of accident i.e. 13.12.2006, till the date of realization.

The appeal stands allowed in above terms.

May 04, 2016

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**

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