

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

FAO No. 2967 of 2013(O&M)

Date of decision :05.09.2016

Sinder Pal @ Sinder Kaur and others

.....Appellants

Versus

Gurcharan Singh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. A.S.Syan, Advocate
for the applicants-appellants.

Mr. Karamjit Singh, Advocate
for respondents no.1 and 2.

Mr. M.B.Jain, Advocate
for respondent no.3.

DARSHAN SINGH, J. (Oral)

The present appeal has been preferred against the Award dated 11.08.2008 passed by the learned Motor Accident Claims Tribunal, Barnala (for short 'Tribunal'), whereby appellant-claimants have been awarded compensation to the tune of Rs. 13,43,000/- as compensation on account of death of Manjit Singh in this motor vehicular accident, which took place on 12.05.2006.

2. The present appeal has been preferred for enhancement of the amount of compensation.

3. Along with the appeal, the appellants have also moved an application under Section 5 of the Limitation Act (for short Act) for

condonation of 1625 days delay in filing the present appeal on the grounds *inter alia* that the appellants are innocent persons and were not aware about the legal procedure of the Court and were under the impression that no further appeal or revision lies against the Award of the Tribunal, Barnala. It is further pleaded that the Insurance Company has filed an appeal against the Award. The appellants have received the summons for appearance for 06.05.2013. Thus, appellants contacted their counsel and enquired as to whether they can file the appeal for enhancement. Then, they come to know that the appeal can be filed for enhancement. It is further pleaded that the delay in filing the appeal was neither intentional nor deliberate.

4. This application has been contested by the respondents no.1 and 2 on the grounds *inter alia* that false and frivolous reasons have been mentioned in the application.

5. Respondent no.3-Insurance Company also contested the application on the grounds *inter alia* that appellants-applicants were required to be diligent to file the appeal within period of limitation. Appellants have raised the lame excuses to get over the delay in filing the present appeal. All the averments raised in the application shows the laxity on their part and do not in any way show or prove the due diligence and action on their part. With these pleas, respondent-Insurance Company plead for dismissal of the application.

6. I have heard Mr. A.S.Syan, Advocate, learned counsel for the applicants-appellants, Mr. Karamjit Singh, Advocate, learned counsel for respondents no.1 and 2, Mr. M.B.Jain, Advocate, learned counsel for respondent no.3 and have carefully gone through the paper book.

7. Learned counsel for the applicants-appellants contended that

the delay in filing the appeal has occurred as the claimants were illiterate and innocent. They have no knowledge that they have got right to file the appeal for enhancement of the amount of compensation. They only came to know that appeal is maintainable when they received the summons in the appeal filed by the Insurance Company against this very Award. Thus, he contended that there are sufficient cause to condone the delay.

8. On the other hand, learned counsel for the respondents contended that the claimants were represented by the qualified counsel before the learned Tribunal. It is not plausible that the counsel might not have informed them about their right to file the appeal. Moreover, the ignorance of law is not a sufficient cause to condone this long delay. Thus, they pleaded that the present appeal is barred by limitation.

9. I have duly considered the following contentions.

10. There is long delay of 1625 days in filing the present appeal. The only plea raised by appellants in the application under Section 5 of the Act for condonation of delay is that they are innocent persons and were under an impression that no further appeal or revision lies against the Award of the Tribunal. They only came to know that appeal can be filed when they received the summons for appearance in the appeal filed by the Insurance Company.

11. There is no dispute with the proposition of law that there should be liberal approach to condone the delay and expression “sufficient cause” should be given a liberal interpretation to ensure that the substantial justice is done. But, at the same time, it must be shown that for delay in filing the appeal, the party has not acted in negligent manner or there was a want of *bona fide* on its part. It should not have remained inactive, the

applicant must satisfy the Court that he was prevented by any “sufficient cause” from prosecuting and unless a satisfactory explanation is furnished the Court should not allow the application for condonation of delay. The Court has to examine whether the mistake is *bona fide* or was merely a devise to cover the delay.

12. The Hon'ble Apex Court in case **Basawaraj and another Vs. Special Land Acquisition Officer 2004(1) R.C.R. (Civil) 603** has laid down that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds.

13. In the instant case, the plea taken by the applicants-appellants that they were innocent and were not aware that the appeal can be filed for enhancement of compensation does not inspire any confidence. Copy of the impugned award shows that the applicants-appellants were represented by a counsel in the Tribunal. It is not believable that their counsel might not have made them aware about their right of appeal. The long delay of 1625 days in filing the appeal was required to be explained by applicants-appellants by showing the cogent, plausible, positive and definite sufficient cause. But, the pleas raised by applicants-appellants do not satisfy the aforesaid requirements much less to explain the long delay of 1625 days in filing the appeal.

14. Thus, keeping in view of my aforesaid discussion, applicant-appellants have failed to establish the sufficient cause for condonation of the long delay of 1625 days in filing the present appeal.

15. Consequently, the application moved by the applicants-appellants for condonation of delay having no merits is hereby dismissed.

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In view of the dismissal of the application of the applicants-appellants for condonation of delay, the present appeal being barred by limitation, is hereby dismissed.

05.09.2016

S.khan

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No