

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

FAO-1381-2016 (O&M)

Date of decision: 3.3.2016

Buta Singh

...Appellant

Versus

Amritpal Kaur and others

...Respondents

**CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR**

Present: Ms.Naiya Gill, Advocate for the appellant

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**SNEH PRASHAR, J.**

The appellant is driver of truck bearing registration No.PAT-9427 (for short 'the offending truck') involved in the accident that took place during the intervening night of 31.7.2005 and 1.8.2005 in which Constable Avtar Singh lost his life. The petition under Section 166 of the Motor Vehicle Act of 1988 (hereinafter referred to as 'the Act of 1988') filed by the legal representatives of the deceased claiming compensation was allowed by the Motor Accident Claims Tribunal, Patiala (for short 'the Tribunal') vide award dated 23.7.2009 and the appellant alongwith owner (respondent No.6) was held liable to satisfy the award. Assailing the said award this appeal has been filed.

There is a huge delay of 2321 days in filing the present

appeal. In **N.Balakrishan vs. M.Krishnamurthy 1999(2) RCR (Civil) 578**, Hon'ble Supreme Court has held as under:-

“It is axiomatic that condonation of delay is a matter of discretion of the Court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. Once the Court accepts the explanation as sufficient, it is the result of positive exercise of discretion and normally the superior Court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. But it is a different matter when the first Court refuses to condone the delay. In such cases, the superior Court would be free to consider the cause shown for the delay afresh and it is open to such superior Court to come to its own finding even untrammelled by the conclusion of the lower Court.”

In the instant case, the explanation put forth by the appellant for delay of 2321 days is that he is an illiterate person and was under the impression that as he has undergone the sentence, the case is over. It

is only when he received the summons to appear in execution petition filed by the claimants-respondents that he came to know that an amount of Rs.15,98,790/- has been sought to be recovered from him.

The cause for delay explained by the appellant is unacceptable because a bare perusal of the award reveals that throughout the trial of the claim petition the appellant was represented by an Advocate and he strenuously contested the same. The award was pronounced in the presence of his counsel.

As regards the criminal registered in respect of the accident, the appellant was convicted by learned trial Court under Section 279, 304A of the Indian Penal Code vide judgment and order dated 16.5.2013. Thereafter, he filed an appeal before learned Additional Sessions Judge, Patiala, which was dismissed on 21.10.2013. In the said backdrop it does not lie in his mouth to say that being an illiterate person, he did not know about the proceedings and award passed by the Tribunal and its consequences.

Further, the award indicates that on an application dated 22.4.2009 filed by the Insurance Company during the trial of the claim petition before the Tribunal, neither any reply was filed nor any insurance policy was placed on record by the appellant or owner of the offending truck. As per record produced by RW1 Nathi Ram, Ahlmad, who proved the copy of memo, vide which the offending truck was taken into possession by the police during investigation of the criminal case, the offending truck was not insured on the date of the accident.

In the above premise, the appellant utterly fails to explain any sufficient reason for condonation of delay in filing the appeal. The appeal itself is devoid of merit and there is no ground to interfere in the findings of learned Tribunal with regard to the liability of the appellant to pay the compensation. As such, the present appeal is dismissed.

3.3.2016  
gsv

**(SNEH PRASHAR)**  
**JUDGE**