

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

**C.M. NOS.12964-66 & 23049-50 CII OF 2016 &
F.A.O. NO.3825 OF 2016 (O&M)**

DATE OF DECISION: DECEMBER 15, 2016

Deepak Garg and another

.....Appellants

VERSUS

Employees Compensation Commissioner and others

....Respondents

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

Present: Mr. Gagandeep Singh Manku, Advocate,
for the appellants.

Mr. Rajesh Bansal, Advocate,
for respondent Nos.2 to 6.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No.23049 CII of 2016

C.M. is allowed.

Reply on behalf of respondent Nos.2 to 6 is taken on record.

C.M. Nos.12964-66 & 23050 CII OF 2016 and F.A.O. No.3825 of 2016

Prayer in C.M. No.12964 CII of 2016 is for condonation of
delay of 734 days in filing the appeal.

A perusal of the said application would show that plea, which
has been taken by the applicant-appellants, is that they were not served
through their proper names and addresses. They came to know about the

proceedings in the second week of June 2016, when Bank of Baroda, SSI, Ludhiana, applied for a lien of ₹8,63,900/- in the bank account of M/s Durga Mill Store on the directions of Employees Compensation Commissioner, Ludhiana. It is thereafter they came to know that an exparte award dated 18.04.2014 has been passed against them. The applicant-appellants immediately applied for a certified copy of the award on 14.06.2016, which was delivered on 15.06.2016 and the appeal alongwith application for condonation of delay was filed on 19.06.2016, resulting in delay of 734 days in filing the appeal.

Reply to the application has been filed by respondent Nos.2 to 6, wherein it has been pointed out that the only challenge, which has been laid in the present appeal, is to the award dated 18.04.2016 passed by the Commissioner, Kurukshetra, under the Employees Compensation Act on the ground that they were not served and were not aware of the proceedings pending against them. The order dated 27.11.2013, by which they were proceeded against exparte, has not been challenged by the applicant-appellants. It has been pleaded that earlier notices were sent through ordinary process, which did not result in service upon the applicant-appellants. Thereafter, notices were even sent through post, which also came back unserved. Dasti summons were ordered to be issued to effect service on the applicant-appellants. However, appellant No.1, Deepak Garg, refused to take the summons, which is mentioned in the report of the Clerk of the Civil Judge (Senior Division), Ludhiana. Hence, exparte proceedings were initiated against applicant-appellant No.1. Applicant-appellant No.2, Anil Garg, was served through publication in Dainik Jagran newspaper dated 04.09.2013 but he did not appear in Court and vide order dated

27.11.2013, exparte proceedings were initiated against him as well. This order dated 27.11.2013 is also not under challenge in the present appeal. That apart, it has been stated that no reasonable explanation has been given by the applicant-appellants for this inordinate and long delay of 734 days in filing the appeal. It may be added here that no replication to the reply, which has been filed by respondent Nos.2 to 6, has been filed by the applicant-appellants.

Keeping in view the above stand taken by the respective parties, the contention of counsel for the applicant-appellants that delay of 734 days in filing the appeal is neither deliberate nor intentional, cannot be accepted firstly for the reason that the order dated 27.11.2013, vide which the applicant-appellants were proceeded against exparte, has not been challenged and further there is no justifiable reason given by them for not approaching the Court earlier, especially when, as per the reply of respondent Nos.2 to 6, the service on the applicant-appellants was effected through court process in accordance with law.

Therefore, since the applicant-appellants have failed to explain the inordinate delay of 734 days in filing the appeal, C.M. No.12964 CII of 2016 for condonation of delay stands dismissed.

Since the application for condonation of delay stands dismissed, as a consequent thereof, the main appeal also stands dismissed being barred by limitation.

As the main appeal stands dismissed, C.M. Nos.12965-66 CII as filed by the applicant-appellants also stand dismissed.

At this stage, counsel for respondent Nos.2 to 6 states that he does not press C.M. No.23050 CII of 2016 for modification/clarification of

order dated 14.07.2016 and the same may be dismissed as infructuous. It is
so ordered.

**December 15, 2016
khurmi**

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No