

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

-.-

CM No. 14338-CII of 2016 in/and
FAO No. 4183 of 2016 (O&M)
Date of decision: 30.09.2016

Naresh Kumar and another

..... Petitioners

Versus

Surjit Kaur and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. P S Jammu, Advocate
for the applicants/appellants

-.-

Rekha Mittal, J. (Oral)

Prayer in this application is for condoning delay of 1612 days
in filing the appeal.

The plea of the applicants/appellants is that they received
summons from the executing Court on 21.03.2016 and came to know about
award dated 11.08.2011. They immediately applied for certified copy on
25.03.2016, received the relevant document(s), arranged counsel's fee and
filed the appeal.

Counsel for the applicants, in line with the averments set up in
the application, has submitted that delay in filing the appeal is not
intentional nor willful, therefore, the same is liable to be condoned.

I have counsel for the applicants/appellants and perused the
paper book.

The present appeal has been preferred by the owner and his general attorney to express their grievance with regard to recovery rights allowed in favour of the Insurer on the grounds that driving licence possessed by Surjit Singh, driver of offending Canter No. HR 61-4372 was not a valid one. As the present appellants were arrayed as respondents No. 1 and 2 in the claim petition preferred by Surjeet Kaur and others and they were being represented through a counsel Shri B S Khosa Advocate before the Tribunal as recorded in the award, plea of the applicants that they were not aware of passing of the award in August 2011 or they learnt about passing of award in the year 2016 when they received summons in the executing petition appears to be patently false and result of concoction. That being so, the applicants/appellants have miserably failed to make out a sufficient cause enabling them to seek indulgence of the Court in exercise of discretionary jurisdiction for condoning inordinate delay of more than four years.

I would hasten to add that this Court is not oblivious of the fact that the Court is required to adopt a liberal and pragmatic approach while deciding question of condonation of delay but in the given circumstances of the present case that the applicants/appellants have altogether failed to make out a sufficient cause, they have dis-entitled themselves to benefit of a liberal approach required to be adopted by the Court.

In this view of the matter, the application filed by the applicants/appellants seeking condonation of delay is devoid of merit and deserves to be rejected.

For the foregoing reasons, the application is dismissed. As a consequence, the appeal is dismissed being barred by limitation.

(Rekha Mittal)
Judge

30.08.2016
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No

