

FAO No. 4714 of 2016(O&M)

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Paramjit Kaur Saini
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In the High Court of Punjab and Haryana at Chandigarh

Date of Decision:17.10.2016

FAO No. 4714 of 2016(O&M)

Bharti Axa General Insurance Company Limited

---Appellant

vs.

Ishwanti and others

---Respondents

FAO No. 4715 of 2016(O&M)

Bharti Axa General Insurance Company Limited

---Appellant

vs.

Parmila and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Rajbir Singh, Advocate
for the appellant**

Rekha Mittal, J.

By way of this order, I shall dispose of FAO Nos. 4714 and 4715 of 2016 filed by the Bharti Axa General Insurance Company Limited emerging out of award dated 19.11.2015 passed by the Motor Accidents Claims Tribunal, Jhajjar (in short “the Tribunal”) as identical questions of law

and fact are involved for adjudication. For brevity, facts are taken from FAO No. 4714 of 2016.

The appellant insurance company has filed the appeal to assail the award dated 19.11.2015 whereby the claimants have been awarded compensation of Rs. 50,58,768/- on account of death of Vijay Kumar @ Bijender Singh in a motor vehicular accident that took place on 31.7.2012.

Alongwith the appeal, an application, CM No. 16097-CII of 2016 has been filed under Section 5 of the Limitation Act for condonation of delay of 139 days in filing the appeal. The plea of the applicant-appellant raised in para 2 of the application reads as follows:-

“2. That after passing the award dated 19.11.2015 the certified copy of the same was applied by the counsel before the Ld. Tribunal on 23.11.2015, the same was prepared on 27.11.2015. After receipt of the certified copy the same was sent to the Divisional office of the appellant-insurance company, thereafter, the Divisional office sent the same to Regional Office. The Regional office had taken the decision to file the appeal against the above said award before this Hon'ble Court. Thereafter, the demand draft of statutory amount was prepared on 21.6.2016. After

completing the relevant documents and demand draft the case file was sent to the undersigned counsel through courier. The same was received on 4.7.2016. Hence the appeal is being filed without any further delay. In this way the delay in filing the appeal has occurred.”

The application is supported by an affidavit of Dipshikha Chatterjee, Legal Claims, Bharti Axa General Insurance Company Limited.

Counsel for the applicant-appellant has submitted that delay in filing the appeal is not intentional but due to the time consumed in processing the case and taking a final decision in the matter for filing the appeal. The file moved at different levels from Divisional office to Regional office.

Counsel has further submitted that law regarding condonation of delay under Section 5 of the Limitation Act is quite liberal and it has been repeatedly held by the Courts that the Court should not adopt a pedantic approach while dealing with an application for condonation of delay so that contesting claims of the parties are not thrown overboard at the threshold without providing an opportunity to be heard on merits. In support of his contention, he has referred to judgments of Hon'ble the Supreme Court of India *State of Nagaland vs. Lipok AO and others 2005(2) RCR (Civil) 375, Collector, Land Acquisition, Anantnag and another vs. Mst. Katiji and*

others 1987 AIR (SC) 1353, Oriental Aroma Chemical Industries Limited vs. Gujarat Industrial Development Corporation 2010(2) RCR(Civil) 284, B. Madhuri Goud vs. B.Damodar Reddy 2012(12) SCC 693, S.Ganesharaju (D) Lrs. and another vs. Narasamma (D) Thr. Lrs and others 2013(11) SCC 341. Further reference has been made to judgment of this Court *Mrs. Saroj and others vs. Sh. Baljeet Singh and another 2010(3) RCR(Civil) 929.*

I have heard counsel for the applicant-appellant and perused the paper book.

The controversy raised in the present appeals is squarely covered by the judgment of even date passed in FAO No. 4740 of 2016 titled “Bharti Axa General Insurance Company Limited vs. Ram Parshad and others”.

Appeals are disposed of in the same terms.

(Rekha Mittal)
Judge

17.10.2016
paramjit

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