

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

107

CM No.21725-CII of 2015 and
FAO No.6956 of 2015 (O&M)

Date of Decision: February 05, 2016

Janta Sewak Tourist Bus Service registered office Samrala,
District Ludhiana and another

...Appellants

Versus

Charanjit Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Rahul Sharma, Advocate
for the applicants-appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.21725-CII of 2015

Prayer in this application is for condonation of delay of 1625
days in filing the appeal.

The reason assigned for non-filing of the appeal within the
limitation prescribed is that a power of attorney was given to
Shri Manmohan Singh son of Rajinder Singh, resident of village
Makaropur, Tehsil Bassi Pathana, District Fatehgarh Sahib, to run the
vehicle No.PB-23B-4811 bearing permit No.723/56. He was given all rights
to take care and deal with the permit and the vehicle. He had been pursuing
the matter on behalf of the company on the basis of the said power of
attorney.

A claim petition was filed against the applicants-appellants in
which the applicants-appellants were proceeded against *ex parte* on
28.11.2008. The Motor Accident Claims Tribunal, Ropar, passed an
ex parte award on 24.02.2009. An application under Order IX Rule 13 for

setting aside the *ex parte* order dated 28.11.2008 and *ex parte* award dated 24.02.2009 was moved but the said application was dismissed on 06.01.2011. The factum of the *ex parte* award having been passed, was not conveyed to the applicants-appellants. As a matter of fact, the said power of attorney informed applicant-appellant No.1 that the case has been dismissed by the trial Court. He further stated that an appeal, as has been preferred to the High Court, has also been dismissed. The applicants-appellants were *bonafidely* believing Manmohan Singh, who was their employee, however, the factum with regard to dismissal of the claim petition and the appeal by the High Court was found to be incorrect. The applicants-appellants came to know about the correct facts when summons were received in the execution petition on 07.09.2005. On coming to know about the passing of the *ex parte* award, the present appeal has been filed which has resulted in the delay of 1625 days. Counsel contends that the delay is neither intentional nor deliberate and has been duly explained and, therefore, the present application deserves to be allowed.

I have considered the submissions made by learned counsel for the applicants-appellants but do not find myself in agreement with his submissions.

As is apparent from the grounds as mentioned in the application, the applicants-appellants, have not been vigilant enough to pursue their case. Merely because a power of attorney had been given to one Shri Manmohan Singh, who is also an employee of the applicants-appellants and he had been pursuing the matter, would not be enough. As and when it was intimated by him that an award has been passed and the appeal preferred which has also been dismissed, appropriate steps

should have been taken to get the copies of the said orders and thereafter proceeded in accordance with law. This is a case of total negligence and inaction at the appropriate stage including non-supervision on the part of the applicants-appellants. Even if for the sake of assumption it is accepted that Manmohan Singh had not correctly informed the applicants-appellants, the action, if any, taken against him has not been mentioned in this application. The explanation being not acceptable with regard to the inordinate delay in filing the appeal which also has not been explained in detail, the present application deserves dismissal.

Ordered accordingly.

FAO No.6956 of 2015

In view of the dismissal of the application for condonation of delay, the appeal stands dismissed as barred by limitation.

In the light of the dismissal of the appeal, the application for stay i.e. CM No.21726-CII of 2015, stands disposed of as infructuous.

February 05, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE