

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

FAO No.6503 of 2016(O&M)

Date of decision:30.11.2016

National Insurance Co. Ltd.

....Appellant

VERSUS

Chandra Wati and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. D.R. Bansal, Advocate for the appellant.

REKHA MITTAL, J.(Oral)

The present appeal assails award dated 09.03.2016 passed by the Motor Accidents Claims Tribunal, Ludhiana, whereby the respondents/claimants have been awarded compensation in regard to death of Kajal (minor) in a motor vehicular accident that took place on 14.07.2015. Along with the appeal, an application under Section 5 of the Limitation Act, 1963 read with Section 173 of the Motor Vehicles Act, 1988 for condoning delay of 130 days in filing the appeal has been filed. The averments set up in the application in para 2 of the application read as follows:-

“2.That after receipt of MACT award the matter was considered in the Divisional Office Ludhiana whether to file or not. Thereafter, it was considered in the Regional Office Ludhiana whether to file appeal. After taking the legal opinion it was decided to file appeal as the insured vehicle has been involved as an after thought whereas the number of vehicle and name of its driver was not mentioned in the FIR. The file was then sent to Chandigarh Regional Office Motor TP Claim HUB for filing appeal. In this process the appeal has become barred by 130 days.”

The application is supported by a joint affidavit of Pooja Bhardwar, A.O., National Insurance Company, Ltd. in support of the application for condonation of delay as well as appeal.

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. 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.

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

The controversy raised in the present appeal is squarely covered by the judgment of this Court in FAO No. 4740 of 2016 titled **Bharti Axa General Insurance Company Limited vs. Ram Parshad and others**, decided on 17.10.2016.

Appeal is disposed of in the same terms.

NOVEMBER 30, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no