

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

114

FAO No.6908 of 2016 (O&M)
Date of Decision: November 29, 2016

National Insurance Co. Ltd., Chandigarh

...Appellant

Versus

Kanwaljit Kuar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Suvir Dewan, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.23994-CII of 2016

Prayer in this application is for condonation of delay of 147 days in filing the appeal which according to the applicant-appellant has occurred because of misplacement of the original file in the Divisional Office of the applicant-appellant which has resulted in the delay of 147 days in filing the appeal. It has been stated that the delay is neither intentional nor deliberate. The application is supported by the affidavit of Ms. Pooja Bhardwar, Administrative Officer, National Insurance Company Limited, Regional Office, Chandigarh.

For the reasons mentioned in the application, the same is allowed.

Delay of 147 days in filing the appeal stands condoned.

FAO No.6908 of 2016

Challenge in this appeal is to the order dated 05.02.2016 passed by the Commissioner, Circle-1, under The Employee's Compensation Act, Amritsar, whereby the claim petition preferred by the contesting respondents 1 to 4 has been allowed granting them the

compensation amounting to ₹7,93,240/- along with interest at the rate of 12% per annum from the date of accident till realisation thereof which has to be paid by the appellant-Insurance Company.

2. It is the contention of learned counsel for the appellant that as per the Driving Licence, the date of birth of the deceased was 01.05.1970 and the said Driving Licence has been issued on 12.01.1993. If the date of birth of deceased-Gurjit Singh is taken to be of the year 1970, then he could not have been of the age of 35 years at the time of accident i.e. 29.10.2013 but would rather be 44 years of age. He, thus, contends that the age having been wrongly assessed, the compensation as granted by the Commissioner, is on the excessive side and the same needs to be reduced accordingly. He submits that reliance has only been placed on the Post-Mortem Report and the bald statement of the claimants which cannot be relied upon in the light of the fact that there is copy of a public document which has been produced on record by the appellant-Insurance Company i.e. the Driving Licence of the deceased. Prayer has thus been made for reducing the compensation amount, as has been granted to the respondents-claimants.

3. I have considered the submissions made by learned counsel for the appellant and with his able assistance, have gone through the impugned order dated 05.02.2016 passed by the Commissioner but cannot accept the same.

4. It is true that the appellant-Insurance Company has produced a copy of the Driving Licence but they have failed to prove the said document as the appellant has not examined any official from the concerned

Licensing Authority to prove the said document to be an authentic one. Mere production of a Driving Licence would not be enough, especially when the same has not been proved in accordance with law. The findings as recorded by the Commissioner in its order dated 05.02.2016 relating to the age of deceased-Gurjit Singh being fully justified as the same are based upon the Post-Mortem Report as well as the positive statements of the claimants, the same cannot be faulted with.

5. There being no merit in the present appeal, the same stands dismissed.

6. In the light of the dismissal of the appeal, the application for stay i.e. CM No.23995-CII of 2016, stands disposed of as infructuous.

November 29, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No