

CM-13823-CII-2016 in/and
RA-CR-179-CII-2016 in
FAO-1432-2013

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

CM-13823-CII-2016 in/and
RA-CR-179-CII-2016 in
FAO-1432-2013
Date of decision: 26.8.2016

Neelam Devi and others

...applicants/Appellants

Versus

Tek Bahadur @ Tek and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Ashwani Arora, Advocate for the applicants/ appellants

SNEH PRASHAR, J.

CM-13823-CII-2016

The present application under Section 5 of the Limitation Act is for condonation of delay of 31 days in filing the review application.

For the reasons mentioned in the application, which is duly supported by affidavit of the counsel for the applicants/ appellants, the delay of 31 days is condoned subject to all just exceptions.

Application stands disposed of accordingly.

RA-CR-179-CII-2016

The instant application has been filed for review of the

judgment dated 10.3.2016, vide which the FAO-1432-2013, i.e. Appeal filed by the applicants/ appellants was partly allowed.

Heard.

Deceased Sunil Datt was a Government employee and was posted as a Senior Accountant with A.G. Punjab (A&E), Chandigarh at the time of his death. Considering all aspects of the case relating to the age, service and income of the deceased, the compensation was adequately enhanced and the appeal was partly allowed.

Learned counsel for the applicants/ appellants submits that when none of the parties had raised the issue regarding split multiplier, following which, the appeal was decided, full multiplier on the income of the deceased should have been applied.

In Kamlesh Verma vs. Mayawati (2013) 8 Supreme Court Cases 320, the Hon'ble Supreme Court has laid the following guidelines regarding review of the judgment:-

“Summary of the Principles:

16) Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

(A) When the review will be maintainable:-

(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words “any other sufficient reason” has been interpreted in *Chhajju Ram vs. Neki*, AIR 1922 PC 112 and approved by this Court in *Moran Mar Basselios Catholicos vs. Most Rev. Mar Poulose Athanasius & Ors.*, (1955) 1 SCR 520, to mean “a reason sufficient on grounds at least analogous to those specified in the rule”. The same principles have been reiterated in *Union of India vs. Sandur Manganese & Iron Ores Ltd. & Ors.*, JT 2013 (8) SC 275.

(B) When the review will not be maintainable:-

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived.

Learned counsel has failed to refer to any mistake or error apparent on the face of the record or to discovery of any new or important matter which despite exercise of due diligence was not in the knowledge of the applicants/ appellants or could not be produced by him. As such, there being no sufficient reason for review of the judgment, the application for review of the judgment dated 10.3.2016 is dismissed.

26.8.2016
gsv

[SNEH PRASHAR]
JUDGE

Whether reportable? Yes

Whether speaking/ reasoned? Yes