

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

**CM-2-CII-2015 in XOBJC-1-CII-2015
in/and FAO No. 2305 of 1999 (O&M)
Date of Decision: October 25, 2017**

National Insurance Company Ltd.

..Appellant(s)

Versus

Smt. Sudesh Juneja and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Deepak Suri, Advocate
for the appellant.

Mr. Sagar Aggarwal, Advocate
for respondent nos.1 to 4/cross-objectors.

Mr. C.P. Tiwana, Advocate
for respondent no.5.

Mr. Ashok Bhardwaj, Advocate
for respondent no.6.

Mr. Madan Mohan, Advocate
for respondent no.8.

Mr. Paul S. Saini, Advocate
for respondent no.9.

ANITA CHAUDHRY, J.

This appeal is by the insurance company disputing the
quantum of compensation allowed to the claimants.

The appeal was filed in 1999. The matter was admitted. Thereafter, the record of this file was burnt in the fire incident which had taken place in the year 2011. The file was re-constructed and notices were again issued in 2014 and service on the claimants had been effected in April, 2014. Cross-objections have been filed by the claimants in 2015. An application has been filed along with the cross-objections seeking condonation of delay in filing the cross-objections. The interim orders which are available show that the counsel appearing for the claimants had put in appearance on the day the appeal was admitted. It is necessary to first deal with the cross-objections and the question is whether delay can be condoned.

I have heard the counsel for the claimants/cross-objectors at great length and he has relied upon ***Special Land Acquisition Officer, Upper Krishna Project, Jamkhandi, Karnataka Vs. Mahadev Govind Gharge and others 2011 AIR (SCW) 3220.***

The submission on behalf of the claimants/cross-objectors is that when the appeal comes up for hearing, it is that day which should be considered and the cross-objections had been filed soon thereafter, and the delay can be condoned and the time can be extended. The counsel also submits that in appeals this Court has been condoning the delay even for larger period and has relied upon ***Mohinder Singh Vs. Lakhwinder Kaur and others 2016(2) PLR 165, Bhagyamma and others Vs. M/s. Sandeep Crine and Trailer Serv.***

And another 2001 AIR (SCW) 2454 and Pushpa Rani and others Vs. Gurbant Singh and others 2013(3) PLR 209. Counsel for the claimants/cross-objectors has referred to para 28 and 55 of the judgment rendered in *Mahadev Givind Gharge's* case (supra) but I am constrained to hold that the limitation of one month for filing the cross-objections as provided under Order 41 Rule 22 of the Civil Procedure Code commences from the date of service of notice on the respondent or his pleader and the cross-objectors have been unable to furnish any reasonable or sufficient cause. The appeal was filed in 1999. Notices had been sent earlier. Its a fact that the record was destroyed and notices were again sent and even if that date is also taken into account, there is a delay much larger than what has been stated in the application. There is a reference in one of the orders that the Court had admitted the appeal in the presence of the parties which was years earlier.

The provisions of Order XLI Rule 22 of the Code are akin to the provisions of the [Limitation Act](#), 1963, i.e. when such provisions bar a remedy, by efflux of time, to one party, it gives consequential benefit to the opposite party. Before such vested benefit can be taken away, the Court has to strike a balance between respective rights of the parties on the plain reading of the statutory provision to meet the ends of justice. If a cross-objector fails to file cross-objections within the stipulated time, then his right to file cross-objections is taken away.

The delay is huge and cannot be condoned. Application seeking condonation of delay in filing the cross-objections is dismissed. As a consequence, the cross-objections are also dismissed.

Now coming to the main appeal filed by the insurance company and sketching few facts. Krishan Lal Juneja was a Deputy General Manager. He was stated to be earning Rs.10,000/- per month but the certificate was considered by the Tribunal and the revised salary was taken into account and a deduction of 1/3rd was made considering the number of claimants and the multiplier of 12 was applied and the compensation was calculated at Rs.14,50,000/-.

The submission on behalf of the insurance company is that when the income was pleaded to be Rs.10,000/- per month, the Tribunal could not have taken higher income to calculate the loss.

The argument on the face of it needs to be rejected. The law on this had been settled long ago. In the appeal, the plea taken by the appellants is that the multiplier of 8 should have been applied, which cannot be accepted. There is no error in the application of multiplier or in the deduction made.

There is no merit in the appeal and is dismissed.

October 25, 2017

sunil

**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No