IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

206

FAO No.842 of 2012 (O&M)
Decided on : 03.03.2017

Joginder Kaur and others

... Appellants

Versus

M/s Dhir Roadways and another

.. Respondents

CORAM : HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present:- None for the appellants.

None for respondent No.1.

Mr.Gaurav Rana, Advocate for
Mr.Ashwani Talwar, Advocate
for respondent No.2.

G.S.Sandhawalia, J. (Oral)

CM No.3736 CII of 2012

This is an application for condonation of delay of 180 days in filing the appeal.

The averments made in the application would go on to show that the claimants are poor and are illiterate persons, and even they did not have enough money to file the appeal. Sufficient cause has been shown in the application to condone the delay.

In view of the averments made in the application which is supported by an affidavit, sufficient cause has been shown in the application, CM is allowed and delay of 180 days in filing the appeal is condoned.

FAO No.842 of 2012

The present appeal has been filed by the applicants-appellants-claimants, against the order dated 25.03.2011, passed by the Commissioner, Patiala whereby, a sum of Rs.3,38,880/- has been awarded as compensation along with simple interest 6% per annum, from the date of accident under the ***Employees Compensation Act, 1923*** *(for short the 'Act')*.

The claimants are aggrieved on the ground that rate of interest is liable to be enhanced from 6% per annum, and accordingly, substantial question of law have been framed, though the relief claimed is to the tune of 18%. The deceased Jagdish Singh was working as a driver with respondent No.1-company and the vehicle was registered with respondent No.2-Insurance Company. The accident took place on 20.08.2008, and the death occurred at the spot, and the Post Mortem was conducted on 21.08.2008 at Civil Hospital, Ludhiana. Legal notice dated 12.11.2008 was served for making payment, and resultantly, claim application was filed which has accordingly, been allowed. The amount was ordered to be paid jointly and severely, by the owner and the Insurance company.

As noticed, only 6% interest p.a. has been awarded under the provisions of Section 4-A(3) (a) & (b) of the Act, which provides for interest and penalty proceedings. The rate of interest is 12% p.a., which is to be paid in addition to the amount of arrears.

This issue has already been settled by the Apex Court in ***Ved Parkash Garg*** Vs. ***Premi Devi and others*** (1997) 8 SCC 1, ***Oriental Insurance Company Ltd***. Vs. ***Siby George*** 2012(4) SCT 299 and ***Saberabibi Yakubhai Shaikh*** Vs. ***National Insurance Co. Ltd***. (2014) 2, SCC 298, to the extent that interest is payable from one month after the date of accident.

Resultantly, the award as such, is modified to the extent by allowing the appeal, by directing that the interest element would be 12% p.a. from the date of accident, which will be payable by the Insurance company, since it was found that the vehicle was duly insured. Copy of insurance policy, Ex.D1 had been brought on record. Further direction is issued to the Commissioner, Patiala to initiate penalty proceedings against respondent No.1 as the said issue was never redressed by the Commissioner.

[G.S.Sandhawalia]
Judge

03.03.2017
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No