

118.

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

**CM-9321-CII-2017 IN/AND
FAO-2753-2017 (O&M)
Date of decision:28.04.2017**

LIBRA BUS SERVICES PVT. LTD.

... Appellant

versus

NEW INDIA INSURANCE COMPANY LIMITED & ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

**Present: Mr. Arjun Veer Sharma, Advocate,
for the appellant.**

HARI PAL VERMA, J.

The appellant-Libra Services Private Limited has filed the present appeal against the award dated 30.10.2012 passed by Motor Accident Claims Tribunal, Ludhiana (for short, 'the Tribunal'), whereby the claim petition filed by the claimant-Gurpreet Singh (respondent No.3 herein), under Section 166 of Motor Vehicles Act, for grant of compensation, on account of injury suffered by him in the motor vehicular accident which took place on 01.05.2011, was allowed and the claimant was held entitled a sum of ₹89,500/- by the Tribunal.

While challenging the aforesaid award, the appellant has filed an application under Section 5 of Limitation Act seeking condonation of delay of 1471 days in filing the appeal.

Learned counsel for the applicant-appellant has argued that the impugned award was passed on 30.10.2012 against the applicant-appellant and others i.e. Insurance Company (respondent No.1 herein) and Surat Ram Singh-driver (respondent No.2 herein), and vide said award, the Tribunal has given the recovery rights to the Insurance Company-respondent No.1. He has stated that the appellant had engaged Mr. Yogesh Kumar Sharma, Advocate, a practicing lawyer of Punjab & Haryana High Court, but unfortunately, he expired on 15.02.2013. The applicant-appellant was under the bona fide impression that the appeal against the impugned award is pending before this Court and it is only, when the execution proceedings were going on, the applicant tried to communicate with the said counsel (Mr. Yogesh Kumar Sharma, Advocate) to know the status of his appeal and he came to know that the said counsel has passed away on 15.02.2013. Thereafter, the applicant again applied and obtained a certified copy of the impugned award and in this manner, while presenting the present appeal before this Court, delay of 1471 days has occurred.

I have heard learned counsel for the applicant-appellant.

The award was passed on 30.10.2012. It has been contended by learned counsel for the applicant-appellant that the lawyer, who was entrusted with the papers to file an appeal, has died on 15.02.2013. Whereas the present appeal has been filed on 20.02.2017 i.e. after a lapse of about 4 years. A mere entrustment of case to a

the client to be vigilant and he is required to regularly monitor the status of the case at least periodically. No such explanation has been given in the application seeking condonation of delay. The delay of 1147 days is an inordinate one and in the absence of any sufficient cause, this Court does not find any reason to condone the delay. Accordingly, the application for condonation of delay is dismissed.

In view of above, since the application for condonation of delay is dismissed, the application i.e. CM-9322-CII-2017 for condonation of delay of 24 days in refiling the present appeal; the application i.e. CM-9323-CII-2017 for exemption from depositing ₹25,000/-; and the appeal itself i.e. FAO-2753-2017 also stands dismissed.

**(HARI PAL VERMA)
JUDGE**

28.04.2017
sanjeev

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No