

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

FAO 4789/2017(O&M)
Date of decision:11.08.2017

Bajaj Allianz General Insurance Co.Ltd.

.....Appellant

v.

Savitri Devi and others

.....Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.Ashwani Talwar,Advocate for the appellant.

Jaswant Singh,J,(Oral).

Appellant-insurance company is in appeal against the order dated 11.4.2016 passed by the Commissioner under the Employees' Compensation Act,1923,Rewari whereby under various heads a total compensation of Rs.7,36,659/- has been awarded to the respondents 1 to 4 herein, widow and minor children of deceased Kartar Singh-Driver, who was reportedly killed by unknown persons during the course of his employment on 21.6.2012. Alongwith appeal an application for seeking condonation of delay of 357 days in filing appeal has also been filed.

Heard learned counsel for the appellant on delay and perused the impugned order with his able assistance.

In the application seeking condonation of delay, it is averred that the Commissioner under the EC Act pronounced the award on 11.4.2016 though order had been reserved prior thereto and no date was given and hence the appellant did not come to know about the pronouncement of award. It is further averred that application for

obtaining certified copy of the award was moved on 12.7.2016 and the copy of the award was made available on 26.8.2016. Thereafter, it is stated that the matter was examined at the local office and thereafter at the Head Office level; there was protracted correspondence between various offices and the defending counsel and ultimately on 20.3.2017 the present counsel was engaged and instructed to file the present appeal before this Court. The compensation amount was deposited on 25.5.2017 and the instant appeal was drafted and filed on 2.6.2017.

From a perusal of the grounds taken for condoning the said delay of 357, it is apparent that the approach adopted by the appellant company in filing the instant appeal has been totally casual. It is not understandable as to what stopped the appellant from approaching the court of Commissioner to know about pronouncement of award. Even the date when the order was reserved has not been revealed. As noticed above, the award was pronounced on 11.4.2016, copy thereof was applied on 12.7.2016 and after receipt of copy of the award on 26.8.2016, the present appeal was filed on 2.6.2017. In between it is alleged that there was protracted correspondence between various offices. No such correspondence has been detailed or annexed with the application to justify the delay of 357 days in filing the instant appeal. It is well settled that delay cannot be condoned at the mere askance of the party and delay caused for each day has to be explained to make out a case for condoning the delay. In the instant case except making bald assertions no supporting documents have been annexed with the application to corroborate the reasons for delay in filing the appeal. Even the grounds taken for condoning the delay are totally unacceptable. If a party, which has contested the case throughout, does not bother to know about the ultimate fate of the case and wakes up at its leisure to avail the remedy of appeal, such an approach of that party needs to be disapproved sternly. In this view of the matter, the application seeking condonation of delay is dismissed.

Otherwise also on merits also, no interference is warranted. The relationship of employer and employee was proved on record. Further the death/murder of deceased Kartar Singh on 21.6.2012 during the course of his employment was also proved on record. The claimants are none other than the widow and minor children of deceased and were fully dependent upon the deceased. As per post mortem report the deceased was aged about 35 years. His monthly wages asserted by the applicants to be Rs.5000/- per month had also gone unrebutted. As regards the liability of the appellant-insurance company to pay compensation on behalf of owner, it was found that the insurance policy was valid from 20.5.2012 to 19.5.2013 which covers the dated 21.6.2012 when Kartar Singh was found to have been murdered during the course of his employment.

In view of the aforesaid undisputed facts, I find no illegality or irregularity in the order impugned herein warranting interference by this Court in the present appeal.

Dismissed.

11.08.2017
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No