

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

CM No.20312-CII of 2017 in/and

FAO No.6320 of 2017(O&M)

Date of decision: 22.9.2017

Sucha Singh

.....Applicant-Appellant

VERSUS

Jaswant Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. N.S. Minhas, Advocate for the applicant-appellant.

REKHA MITTAL, J. (Oral)

Prayer in this application filed under Section 5 of the Limitation Act, 1963 is for condoning delay of 1755 days in filing the appeal.

Counsel for the applicant-appellant has submitted that Jaswant Singh and others filed an application under Section 166 of the Motor Vehicles Act, 1988 for grant of compensation on account of death of Kartar Kaur wife of Jaswant Singh in a motor vehicular accident that took place on 14.08.2003. The Motor Accidents Claims Tribunal, Bathinda (in short 'the Tribunal') vide award dated 28.08.2012 awarded compensation to the tune of Rs.3,77,000/- payable with interest at the rate of 7% per annum from the date of filing of the claim application till realization. It is argued that the applicant has detailed the facts in para 2 of the application, constituting a sufficient ground for condoning delay of 1755 days in filing the appeal. It is further submitted that a serious prejudice is likely to be

caused to the applicant in case the delay is not condoned and appeal is not heard on merits particularly in the circumstances that the applicant has been acquitted in the criminal trial vide judgment dated 03.12.2014.

I have heard counsel for the applicant, perused the paper-book and various annexures appended with the appeal.

A relevant extract from para 2 of the application wherein the applicant has culled out the grounds for condoning huge delay of 1755 days reads as follows:-

“2....Due to communication gap between the appellant/applicant and his counsel and because of long distance from Bathinda to Ropar, the counsel for the appellant before Id. MACT did not inform the appellant about the decision of the claim petition. The appellant is totally illiterate person and signed in Punjabi. When he was acquitted in criminal case, then he asked his counsel about the fate of claim petition and simply stated that it is also finished. On believing him, appellant who has one young son, who is suffering from chronic disease and was admitted in PGI and undergoing treatment from PGI for the last 2-3 years and following regular check up. So appellant has no time to visit Bathinda in order to enquire about the latest position of the case. Now when bailiff of the Court came to attach the property in execution, only then appellant came to know about the decision of claim petition.”

Counsel for the applicant, in response to a query by the Court, has fairly informed that proceedings before the Tribunal for grant of compensation were contested by the applicant through a counsel, Sh. J.P.S. Brar, Advocate. He has also fairly conceded that till date, the applicant has not paid any money to the claimants in discharge of his obligation under the award. No doubt, the Court is required to be liberal while dealing with an application for condonation of delay so that meritorious claims are not thrown overboard on technical consideration and procedural lapses but equally settled is that the party who slumbers over his rights cannot seek

indulgence of the Court for adjudication of stale claims. The claimants, till date, have not been able to recover even a single penny qua the amount assessed in their favour despite expiry of more than 5 years since the claim pertaining to an occurrence of 2003 came to be decided by the Tribunal on 28.08.2012. The reasons assigned by the applicant for condoning delay of approximately 5 years, in my considered opinion, do not constitute a sufficient ground for upholding plea of the applicant to condone delay of 1755 days.

For the foregoing reasons, the application for condonation of delay fails and is accordingly dismissed. Resultantly, the appeal is dismissed being barred by limitation. Statutory amount of Rs.25,000/- deposited by the applicant be remitted to the Tribunal for payment to the claimants.

SEPTEMBER 22, 2017
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no