

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

RSA No.1132 of 2015 (O&M)

Date of decision : 23.08.2017

Kulvir Kaur and others

...Appellants

Versus

State of UT Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gitish Bhardwaj, Advocate for the appellants.

Mr. Ashish Rawal, Advocate for U.T. Chandigarh.

ANIL KSHETARPAL, J. (ORAL)

CM No.3295-C of 2015

This is an application for condonation of delay of 154 days in filing the present appeal, which is duly supported by an affidavit.

It is pleaded that son of the appellant had met with an accident and received serious injuries. Therefore, the appeal could not be filed in time.

For the reasons recorded above, application is allowed. Delay of 154 days in filing the present appeal is condoned.

CM No.3296-C of 2015

This is an application for permission to file the appeal as indigent person, which is duly supported by an affidavit.

For the reasons recorded in the application, application is

allowed. Appellants are permitted to file the appeal as indigent person.

Main Case

Plaintiffs-appellants have filed the present appeal against the judgment passed by the learned Additional District Judge, Chandigarh reversing the judgment of the trial Court.

The plaintiffs-appellants had filed the suit for damages and compensation. It was asserted that Amrik Singh @ Kaka Singh was involved in a criminal case. FIR No.166 dated 23.10.1991 was registered against him under Section 420 IPC. Amrik Singh @ Kaka Singh was declared proclaimed offender on 22.07.2003.

Late Amrik Singh @ Kaka Singh was arrested on 09.07.2005 and was sent to judicial custody by the Duty Magistrate. While in judicial custody, he became ill and thereafter died. The plaintiffs have claimed damages and compensation on the ground that he was not properly treated, while in custody .

Learned trial Court decreed the suit filed by the plaintiffs and awarded damages to the tune of ₹5,00,000/- alongwith interest at the rate of 12% p.a.

U.T. Administration had filed the appeal before the learned Additional District Judge. Learned Additional District Judge has accepted the appeal.

Counsel for the appellants has submitted that Chandigarh Administration did not take any steps to get proper treatment to the deceased. He submitted that the Medical Officer vide Ex.D1 office report, had opined that the deceased was suffering from severe aplastic anaemia

and, therefore, needs proper treatment and blood transfusion. However, the Chandigarh Administration did not take appropriate steps.

Whereas on the other hand, the counsel for the Chandigarh Administration has defended the judgment passed by the Court. Learned counsel for the Chandigarh Administration has submitted that the deceased was examined at Government Medical College and Hospital, Sector-32, Chandigarh on 18.07.2005 due to bleeding in gums. He was again taken to Government Medical College and Hospital, Sector-32, Chandigarh on 20.07.2005 for follow-up and the deceased remained admitted in the hospital upto 28.07.2005. Thereafter, he was referred to Post Graduate Institute (PGI), Chandigarh by the hospital and the deceased remained admitted in PGI, Chandigarh from 28.07.2005 to 05.08.2005. Thereafter, the deceased was again taken to PGI on 10.08.2005. He was once again examined in Government Medical College and Hospital, Sector-32, Chandigarh in eye OPD on 16.08.2005. The deceased again remained admitted in PGI from 13.09.2005 to 15.09.2005 and died in PGI on 15.09.2005.

I have considered the submission of learned counsels and with their able assistance gone through the record. It is not in dispute that the Jail Authorities as well as Chandigarh Administration had been repeatedly getting the deceased treated from various top hospitals. Appellants have not produced any opinion of the expert or advice of the Doctor either in Government Medical College and Hospital, Sector-32, Chandigarh or PGI, Chandigarh to the effect that the deceased needed blood transfusion.

It is not in dispute that the deceased was admitted in

Government Medical College and Hospital, Sector-32, Chandigarh and PGI, Chandigarh by the Jail Authorities. There is no opinion available on the file to the effect that the deceased required blood transfusion. There is no material available on file to prove that the Jail Authorities of Chandigarh Administration were negligent. Learned First Appellate Court has recorded a finding of fact after discussing the evidence. It is also admitted position on the record that the deceased died due to aplastic anaemia of bone marrow. This disease does not develop in a day.

Learned counsel for the appellants while referring to Ex.D1 submitted that the Medical Officer of the Jail had opined that the deceased would required blood transfusion. Its letter is dated 31.08.2005. The deceased thereafter remained admitted in PGI from 13.09.2005 to 15.09.2005 where he died. At the cost of repetition, no evidence has been produced or no opinion of the Doctor from PGI has been produced to prove that Doctors at PGI had advised blood transfusion but the Chandigarh Administration failed to take any action.

For the reasons recorded above, I do not find any good ground to interfere with the findings of fact arrived at by the learned Additional District Judge, Chandigarh

Regular Second Appeal is dismissed.

23.08.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No