

RSA No.6700 of 2016 (O&M)

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

RSA No.6700 of 2016 (O&M)
Date of decision: 07.07.2017

Jagjit Singh

.....Appellant

versus

Naseeb Kaur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. L.S. Sandhu, Advocate, for the appellant.

RAMENDRA JAIN, J. (ORAL)

CM No.17486-CII of 2016

Instant application under Section 5 of the Limitation Act has been filed for condonation of delay of 471 days in filing the appeal. It is averred that the applicant was not informed by his counsel about the impugned judgment and decree dated 02.05.2015 passed by the first appellate Court against him. However, on 05.04.2016, when he came to know about the impugned judgment and decree, on contact to his counsel, immediately thereafter, he applied for certified copy thereof, which was delivered to him on 08.04.2016. Then the appellant contacted his counsel on 09.09.2016 and got filed this regular second appeal along with instant application.

Heard.

The above averments are casual in nature, which are taken in

routine since last many decades. Much water has already flown. Such type

RSA No.6700 of 2016 (O&M)

of casual/frivolous pleas putting the entire responsibility upon the Advocates by the litigants have to be curbed down with severe hands. As per own averments of the applicant-appellant, his counsel did not inform him about the impugned decision and he contacted him after 11 months. No agreement or contract has been brought on record by the applicant-appellant to show that his counsel was duty-bound to inform him about the result of his litigation by acting as his servant/clerk. Rather it was the duty of the applicant himself to pursue his case/appeal diligently. By this time, it is well settled that each day's delay has to be explained in a mathematical manner. No such effort has been made.

As discussed above, the contents of the application are very casual in nature, therefore, the reasons given by the applicant for condonation of huge delay of 471 days, by any stretch of imagination, cannot be termed as genuine.

RSA No.6700 of 2016

On merits also no substantial question of law has been raised in this appeal except that the respondents/plaintiffs, in their suit, could not prove specific income of deceased Narotam Singh and, thus, interest @ 6% per annum has wrongly been granted by the trial Court by applying a wrong multiplier as deceased Narotam Singh at the time of his death was 65 years of age.

Perusal of impugned judgment shows that the learned trial Court has assessed the income of deceased Narotam Singh as that of casual labourer and multiplier of 07 has been applied under the provisions of the Minimum Wages Act. Therefore, by no reasons, the judgments and decrees

passed by both the Courts below can be said to be unreasonable, illegal and

RSA No.6700 of 2016 (O&M)

perverse. Accordingly, the same are upheld.

In net result, the appeal is hereby dismissed being barred by limitation and on merit as well.

(Ramendra Jain)
Judge

July 07, 2017
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.