

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No.4869 of 2012 (O&M)
Date of Decision: 22.03.2018

Suresh Kumar

....Appellant (s)

Versus

Rustam & others

Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. S.K. Yadav, Advocate for the appellant(s).

Mr. J.P. Sharma, Advocate for respondent no.3.

Mr. Aditya Yadav, Advocate for

Mr. S.N. Saini, Advocate for respondent no.4.

HARI PAL VERMA, J. (Oral)

The appellant has filed the present appeal against the award dated 22.12.2009 passed by the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as “the Tribunal”), whereby, on a claim petition filed by claimant-respondents no.1 and 2 under Section 166 of the Motor Vehicles Act, 1988, the Tribunal has awarded compensation of Rs.3,00,000/- along with interest @ 8 % per annum from the date of filing the claim petition till its realization. The liability to pay the compensation is on the appellant as well as respondents no.3 and 4, jointly and severally.

The present appeal has been filed after a delay of 888 days, for which, CM-21400-CII-2012 under Section 5 of the Limitation Act, seeking condonation of delay of 888 days has been filed.

As per the averments made in the application, on receipt of summons from the Tribunal, the applicant-appellant engaged Mr. J.P. Chaudhary, Advocate to conduct his case, but he neither appeared nor informed him about the case, which led to *ex-parte* proceedings against him.

Learned counsel for the appellant has argued that the appellant had handed over all the documents, including those of subsequent sale of the vehicle in favour of his father Amar Singh son of Ram Nath, resident of Vill. Akoda. Even Amar Singh had further sold the vehicle to Jai Pal Singh son of Megh Singh, resident of Vill. Palli, Tehsil and District Mahindergarh on 20.10.2004, who further sold it to Ajit Singh son of Chajju Singh, resident of Vill. Bhurjat, Tehsil and District Mahindergarh on 01.10.2005. Ajit Singh also further sold the vehicle to Satender, respondent no.9. At the time of the accident, Satender was in actual control/possession of the vehicle. He has further submitted that though the award was passed on 22.12.2009, but the appellant was not aware of it. The factum of the award came to his knowledge only when the attachment warrants from the Tehsildar concerned were received. Thereafter, he immediately contacted his counsel Mr. J.P. Chaudhary, Advocate, who did not give any convincing reply. Accordingly, the appellant applied for a certified copy of the award on 14.08.2012, which was received by him on 18.08.2012 and immediately, thereafter, the present appeal has been filed. Therefore, there is a complete justification to condone the delay of 888 days in filing the present appeal.

On the other hand, learned counsel for the respondents have argued that the appellant has failed to establish a sufficient cause so as to condone the delay.

Admittedly, the appellant was impleaded as respondent no.2A before the Tribunal. In paragraph no.13 of the impugned award, the Tribunal has observed that all the rights and liabilities pertaining to the jeep have passed on to the appellant-Suresh Kumar, who was impleaded as respondent no.2A before the Tribunal and in this manner, after impleading the appellant, the Tribunal has passed the impugned award. The award shows that since the appellant has failed to appear, he was proceeded against *ex-parte* vide order dated 12.8.2009. Thus, on the relevant date, when the impugned award was passed i.e. 22.12.2009, the appellant was already arrayed as respondent no.2A, whereas the present appeal was filed after a delay of 888 days.

The plea of counsel for the appellant that it was only on 20.12.2011, the name of the appellant has been added in the award, cannot be accepted, as vide order dated 20.12.2011, the Tribunal had only made correction in the array of parties.

Thus, this Court is not satisfied with the cause shown by the appellant to condone the inordinate delay of 888 days in filing the present appeal. Therefore, no ground for condonation of delay is made out.

Accordingly, the present appeal is also dismissed.

March 22, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?
Whether reportable?

Yes / No
Yes / No