

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 28.03.2018

FAO-919-2013 (O&M)

Harkesh Kumar ... Appellant

versus

Jaswinder Singh & ors. ... Respondents

FAO-920-2013 (O&M)

Jai Parkash ... Appellant

versus

Jaswinder Singh & ors. ... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Madan Gupta, Advocate
for the appellant.

Mr. Subhash Goyal, Advocate
for respondent No.3.

Hari Pal Verma, J.(Oral)

**CM-5818-CII-2013 in FAO-919-2013 and
CM-5820-CII-2013 in FAO-920-2013**

Prayer in these applications filed under Section 5 of the Limitation Act, 1963 is for condonation of delay of 712 days in filing the present appeal.

Learned counsel for the applicant-appellant has argued that in the accident, the claimant suffered serious burn injuries on various parts of the body and on account of dismissal of claim petition, he was badly disturbed and therefore, could not prefer an appeal within limitation.

Otherwise, the co-injured have filed the appeals against the common award

passed by the Motor Accidents Claim Tribunal, Kurukshetra dated 25.11.2010 whereby the Tribunal has dismissed the claim petition. The said appeals were allowed by this Court vide order dated 11.12.2012 and the matter was remitted back back to the Tribunal for assessment of compensation.

On the other hand, learned counsel for the respondent has though not disputed the fact that the appeals were remitted back to the Tribunal by this Court vide order dated 11.12.2012 but has argued that as the delay is inordinate, the delay cannot be condoned.

I have heard learned counsel for the parties and considered the facts that connected appeals were decided by this Court and the matter was remitted back back to the Tribunal, coupled with the fact that the claimants were badly injured in the accident and must have taken sometime to recoup and avail the remedies.

This Court finds that the appellant(s) has shown sufficient cause to condone the delay of 712 days in the filing the appeal.

For the reasons stated in the applications, same are allowed and the delay of 712 days in filing the instant appeal(s) is condoned.

Main case

This order shall dispose of FAO Nos.919 and 920 of 2013, which have arisen from the award dated 25.11.2010 passed by Motor Accidents Claim Tribunal, Kurukshetra.

Learned counsel for the appellant has argued that connected appeal ***FAO No.1635 of 2011*** titled as ***Smt. Rajinder Kaur and others vs. Jaswinder and others*** and other connected appeals i.e. FAO Nos.2778 to 2780 of 2011 have been remitted back back to the Tribunal by this Court

vide judgment dated 11.12.2012 to assess the compensation for the accident, which took place on 17.04.2008.

Learned counsel for the respondent-Insurance company is fair enough to concede that on the same facts, other connected appeals filed by the claimants were remitted back to the Tribunal for determination of the compensation. However, his argument is that appeal has been filed after a delay of 712 days and the claimant(s) is not entitled to interest for that period and therefore, the Tribunal should not award any interest for this delayed period to the claimant.

To this, learned counsel for the appellant has no objection.

Accordingly, in view of the order dated 11.12.2012 passed by this Court in ***FAO No.1635 of 2011*** titled as ***Smt. Rajinder Kaur and others vs. Jaswinder and others***, the impugned award is set aside and the appeal(s) is remitted back to the Tribunal for assessment of compensation only.

Since the appeal has been filed after a delay of 712 days, the appellant shall not be entitled for interest for the period during which the present appeal(s) was remained barred by limitation.

With this observation, the appeal(s) is disposed of.

28.03.2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/non-speaking?
Whether reportable?

Yes/No
Yes/No