

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

CM-6066-CII-2017 in/&
FAO-1813-2017
Date of decision: 26.02.2018

Nafe Singh and anr.

... Appellants

VS

Ramesh Kumar & ors.

... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Ashok Goel, Advocate
for the appellants.

Hari Pal Verma, J.(Oral)

The claimants have filed the present appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Fatehabad (in short 'the Tribunal') vide order dated 27.11.2007.

The appellants had filed a claim petition under Section 166 of the Motor Vehicle Act, 1988 for grant of compensation on account of death of their young son, namely, Subhash, who died in a Motor Vehiclular Accident, which took place on 16.02.2005. The Tribunal after considering all aspects awarded a total compensation of Rs.3,21,872/- along with interest @ 9% per annum from the date of filing of the petition till its realisation.

Feeling aggrieved against the award dated 27.11.2007 passed by the Tribunal, the appellants filed the present appeal on 27.10.2016 along with an application under Section 5 of Limitation Act seeking condonation of delay of 3167 days in filing the present appeal.

Learned counsel for the appellants has argued that the appeal could not be preferred within the prescribed period of limitation as the appellants are illiterate labourers. Appellant No.1 is also a chronic patient of Asthma. Appellant No.1 was doing the work of white washing in his village and adjoining villages. He stopped working due to illness even before the death of his son, who had died in the accident. The health condition of appellant No.1 had deteriorated after the death of his son and appellant had gone into depression. Appellant No.1 is bed ridden and suffering from acute Asthma. Learned counsel for the appellant has relied upon the judgment of this Court in ***Sita Rani vs. Chhira Ram and ors., 2017(4) RCR (Civil)*** to plead that in case of Sita Rani, the delay of 3985 days in filing the appeal was condoned.

I have heard learned counsel for the appellant.

There is no dispute with regard to death of Subhash in a motor vehicular accident, which took place on 16.02.2005. Thereafter the Tribunal has passed the award dated 27.11.2007 and awarded compensation of Rs.3,21,872/-. The award passed by the Tribunal has been challenged by way of present appeal along with an application under Section 5 of Limitation Act. The delay in filing the appeal is 3167 days, which is extraordinary. So far as the case of Sita Rani(supra) is concerned, the appellant therein was an orphan infant whose parents had died in the accident whereas in the present case, the son of the appellants had died and the claimants/appellants had already been awarded compensation vide award dated 27.11.2007. It is after a period of about 9 years, the present appeal has been filed. Therefore, this Court does not find any ground on which the

condonation is sought good enough to bring the case of the appellants within the parameters of Section 5 of Limitation Act. The applicant has failed to show sufficient cause so as to condone the inordinate delay of 3167 days in filing the appeal.

Accordingly, the application seeking condonation of delay of 3167 days in the filing the appeal is hereby dismissed.

Consequently, the appeal is also dismissed.

26.02.2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/non-speaking?	Yes/No
Whether reportable?	Yes/No