IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2016-2017 (O&M)
Date of decision: 15.02.2018

Amandeep Singh ... Appellant

VS

Ganita Devi & ors. ... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. K.K.Saini, Advocate
for the appellant.

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Hari Pal Verma, J.(Oral)

The appellant has filed the present appeal along with the application under Section 5 of the Limitation Act read with Section 151 of CPC for condonation of delay of 1155 days in filing the appeal.

In the claim petition filed by the respondents-claimants under Section 166 of the Motor Vehicles Act, 1988, the appellant was held as owner of the offending vehicle i.e. trolla No.HR-47-A-0210. The claim petition was allowed on 10.03.2014 and the Tribunal has awarded compensation of Rs.4,01,000/- to the claimants on account of death of Parveen Kumar Giri.

Challenging the award dated 10.03.2014, the present appeal has been filed after a delay of 1155 days . The only ground taken in the application seeking condonation of delay is that the counsel for the appellant had not informed him with regard to the decision of claim petition and it is only when the appellant received the notice from this Court in the month of August, 2016 for appearance in FAO No.10097 of 2014, it came

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to his (applicant-appellant) notice that the Tribunal has passed the award dated 10.03.2014 against him and immediately thereafter, he filed the present appeal.

I have heard learned counsel for the appellant and find that the ground as pleaded in the application seeking condonation of delay of 1155 days in filing the appeal is not sufficient enough to condone the delay. The plea of the applicant that he was not informed by the counsel appearing before the Tribunal cannot be accepted as the applicant had also duty to follow the claim petition pending against him. He is supposed to pursue his case.

In ***Basawaraj and another vs. Special Land Acquisition Officer, 2013(14) SCC 81***, the Apex Court has explained the 'sufficient cause' for the purpose of condonation of delay and held as under:

> *"9. Sufficient cause is the cause for which defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to*

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> *exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose."*

In view thereof, this Court does not find sufficient ground to condone the delay and consequently, the application for condonation of delay as well as main appeal is dismissed.

15.02.2018 **(HARI PAL VERMA)**
sonia **JUDGE**

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

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