

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

F.A.O. No. 5373 of 2018(O&M)
Date of Decision: 28.08.2018

Sanjeev Kumar

.....Appellant.

Versus

Murti Devi and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Vikram Bali, Advocate
for the applicant-appellant.

LISA GILL, J (Oral).

The present appeal has been filed by the driver of the offending vehicle challenging award dated 04.03.2015, passed by the learned Motor Accident Claims Tribunal, Karnal, whereby liability to pay the compensation has been determined to be of the owner and the driver.

There is a delay of 1181 days in filing of this appeal.

Learned counsel for the applicant-appellant submits that this delay is *bona fide*, not intentional or due to any negligence on the part of the applicant-appellant. In-fact, the applicant-appellant was involved in a criminal case i.e. FIR No. 958 dated 01.12.2015 registered under Sections 148, 149, 302 and 506 IPC, Police Station Civil Lines, Karnal. He was afforded bail pending trial by this Court on 14.02.2017. The applicant-appellant, it is submitted is a poor person, therefore it took considerable time for arrangement of funds and procuring the record of the case. It is thus

prayed that delay of 1181 days in filing of this appeal be condoned.

I have heard learned counsel for the applicant-appellant and have gone through the file with his able assistance.

It is apparent from a perusal of the file that petition under Section 166 of the Motor Vehicles Act was filed by the claimant-respondents on 04.03.2011. The present applicant-appellant was proceeded against *ex parte* as he chose not to join the proceedings before the learned tribunal. It is apparent that the applicant-appellant was aware of the proceedings pending before the learned tribunal as he was duly served. Perusal of impugned award dated 04.03.2014 reveals that the applicant-appellant had appeared through his counsel before the learned tribunal on 04.04.2011. The matter was thereafter fixed for filing of written statement. Subsequent thereto the applicant-appellant did not appear before the learned tribunal and he was proceeded against *ex parte*.

Impugned award was passed on 04.03.2015. FIR No. 958 was registered much later on 01.12.2015, therefore, registration of the FIR and the involvement of the applicant-appellant does not in any manner come to the aid of the applicant-appellant.

No explanation whatsoever is forthcoming to explain the circumstances as above.

In the present case, a colossal delay of 1181 days has occurred in filing of the appeal. The said delay is totally unexplained. No plausible reason is set forth by the applicant-appellant to explain the reason for this delay or to show that the delay is *bona fide*, unintentional, beyond the control of the applicant-appellant or unavoidable in any manner.

Keeping in view the facts and circumstances of the case, I do not find any ground whatsoever to condone the delay of 1181 days in filing of the present appeal.

Application is dismissed. Consequently, appeal is dismissed being barred by limitation.

28.08.2018

[LISA GILL]
Judge

s.khan

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.