

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

Letters Patent Appeal No.346 of 2019 (O&M)

Date of Decision: 20.02.2019

Akhtari Khatun

.....Appellant

versus

Union of India and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
 HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Dinesh Ghai, Advocate, for the appellant.

KRISHNA MURARI, CHIEF JUSTICE (oral)

This intra-court appeal under Clause X of the Letters Patent is directed against the judgment and order dated 25.09.2017 passed by the learned Single Judge.

2. The appellant herein approached this Court by filing writ petition seeking a writ in the nature of certiorari to quash the orders dated 19.02.2015, 02.01.2016 and 29.02.2016 whereby her representation for grant of ex-gratia compensation to the tune of ₹ 10 lacs on account of death of her husband was rejected. A further relief of interest at the rate of 18% per annum on delayed payment was also claimed.

3. During the pendency of the writ petition, ex-gratia compensation of ₹ 5 lacs in accordance with the policy dated 28.09.1998, which was in vogue at the time of her husband, was released. After release of the aforesaid amount, learned Single Judge proceeded to consider the issue of grant of interest on the delayed payment, which admittedly was made after about 15 years of the death of the husband and disposed of the writ petition by directing payment of interest at the rate of 9% per annum

after three months from the date of death of her husband till its actual realization.

4. On non-compliance of the aforesaid order, the appellant herein invoked the contempt jurisdiction of this Court by filing COCP No. 1257 of 2018, which came to be dismissed as infructuous vide order dated 01.10.2018 which reads as under:-

“Counsel for the respondents states that the order passed by this Court has been duly complied with, contempt of which was alleged,

Counsel for the petitioner does not dispute the said fact.

In view of the above, the present contempt petition is disposed of as having been rendered infructuous.

Rule issue to the respondent(s) stands discharged.”

5. Office has reported delay of 328 days in filing and 101 days in re-filing the appeal. An application under section 5 of the Limitation Act has been made seeking condonation of delay in filing the appeal. Admittedly, the appeal was presented on 18.09.2018 and remained pending as defective. The explanation submitted is that since she had filed the contempt proceedings, she remained under bonafide impression that the respondents might release complete ex-gratia amount during pendency of the contempt proceedings. The other grounds mentioned in the application are general in nature that she was not keeping well and due to financial constraints the appeal could not be filed within time. There is also delay of 101 days in re-filing the appeal which has been sought to be explained by making the averments that Clerk of the counsel for the appellant by mistake tagged the file with some other case which could only be traced out only on 19.01.2019.

6. The picture which emerges out from the analysis of the entire facts and circumstances is that the appellant herein was satisfied with the order passed by the learned Single Judge and when the same was not being complied with the proceedings of contempt were initiated and during the pendency of the said proceedings the amount as directed by the learned Single Judge was released. This appeal was got prepared and presented which was defective. After receiving the amount the contempt was disposed of on 01.10.2018 and even thereafter no steps were taken within time allowed and with a considerable delay of 101 days the appeal was re-filed. The filing of this appeal is nothing but an afterthought and the grounds to condone the delay appears to have been cooked up and do not inspire any confidence. In the absence of any bonafide explanation with regard to inordinate delay of 328 days in filing and 101 days in re-filing the appeal, the delay is not liable to be condoned. The delay application made under section 5 of the Limitation Act as well as under section 151 of the Code of Civil Procedure to condone the delay in re-filing stand dismissed.

Accordingly, the appeal stands dismissed being barred by time.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

20.02.2019

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No