

In the High Court of Punjab and Haryana at Chandigarh

**CM No. 8692-CII of 2019 in/and
FAO- 2607 of 2019(O&M)
Date of Decision: 22.4.2019**

Oriental Insurance Company Limited

---Applicant-Appellant

versus

Vijaypal Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Ashwani Talwar, Advocate
for the applicant-appellant**

Rekha Mittal, J.

The present appeal directs challenge against award dated 24.8.2018 passed by the Motor Accidents Claims Tribunal, Gurugram (in short “the Tribunal”) whereby compensation has been assessed on account of injuries sustained by Vijaypal Singh in a motor Vehicular Accident that took place on 24.12.2016.

Alongwith the appeal, an application (CM No. 8692-CII of 2019) has been filed under Section 5 of the Limitation Act for condonation of delay of 100 days in filing the appeal.

Counsel for the applicant-appellant would urge that delay in filing the appeal has occurred due to procedural formalities. It is further argued that delay is neither intentional nor mala fide. Further contended that it has been consistently held that the courts should adopt liberal

approach while dealing with an application for condonation of delay so that meritorious claim is not thrown overboard at the threshold.

The plea of the applicant-appellant raised in para 3 of the application reads as follows:-

“That after the award was pronounced, the defending counsel before the MACT, Gurugram submitted a copy of the Award along with legal opinion dated 6.9.2019 to satisfy the award. However, the TP Hub, Gurugram of the Company did not agree with the recommendations of the defending counsel and vide letter dated 10.10.2018, recommended the filing of appeal and sent the matter to TP-Hub, New Delhi. The TP Hub, New Delhi took opinion of another counsel, Sh. R.K.Tripathi who vide his legal opinion dated 22.10.2018, recommended filing of an appeal against award. In view of above, the Regional Office, Delhi vide letter dated 30.10.2018 decided to file the appeal and the case file was sent to Regional Office of Chandigarh. The Regional Office, Chandigarh did not agree with the recommendation and vide e-mail dated 22.11.2018 sent back the case to the Delhi office for re-consideration. The matter remained under correspondence between the Gurugram, Delhi and Chandigarh offices and ultimately on 26.2.2019, it was decided to challenge the award before the Hon'ble High Court. The demand draft of requisite of Rs. 25,000/- was prepared on 27.2.2019 and the present counsel was engaged on 5.3.2019. The appeal was thereafter drafted and filed without any further

delay on 7.3.2019. However, still during the process, there has been a delay of 100 days in filing the present appeal.”

When the facts and circumstances of the present case are examined in the light of judgment of this court in **FAO No. 4740 of 2016 decided on 17.10.2016 titled “Bharti Axa General Insurance Company Limited vs. Ram Parshad and others”** along with connected cases, there is no sufficient cause for condoning huge delay of more than three months. As a consequence, application for condonation of delay is liable to be dismissed and ordered accordingly. As application for condonation of delay has not been allowed, the appeal is dismissed being barred by limitation. No order as to costs.

(Rekha Mittal)
Judge

22.4.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No