

In the High Court of Punjab and Haryana at Chandigarh

**CM No. 8470-CII of 2019 in/and
FAO- 2578 of 2019(O&M)
Date of Decision: 11.4.2019**

Bajaj Allianz General Insurance Limited

---Applicant-appellant

versus

Guddi Devi and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Rajesh Verma, Advocate
for the applicant-appellant**

Rekha Mittal, J.

The present appeal directs challenge against order dated 26.3.2018 passed by the Commissioner, Gurugram under the Employees' Compensation Act, 1923 whereby compensation has been allowed in respect of death of Suresh Kumar stated to be driver on car bearing registration No. HR-26-AM-4652 owned by Sh. Dilip Singh-respondent No. 7.

Along with the appeal, an application has been filed for condonation of delay of 190 days in filing the appeal.

Counsel for the applicant-appellant would argue that delay in filing the appeal is neither intentional nor mala fide. It is argued that delay has occurred as time was consumed in completing process for taking final decision to file the appeal in the case and the matter was dealt with by

various officers of the insurance company for the purpose. In addition, it is argued that court is required to adopt a liberal and non pedantic approach while dealing with question of condonation of delay so that meritorious claims may not be rejected on technical considerations.

A relevant extract from para 2 and 3 of the application put forth to constitute a sufficient cause for condoning of delay of more than six months, reads as follows:-

“2. that after the passing of the impugned judgment dated 26.3.2018, the certified copy was applied by the defending counsel on 25.4.2018 and the same was prepared and delivered on 9.8.2018.

3. that the defending counsel had submitted the opinion along with certified copy. The same was perused and complete file along with evidence and record and annexures was called upon from the counsel who arranged it and the file was completed and was processed and was sent to the head office and competent authority required certain documents for further action in the matter and send the complete file after deciding to file the appeal on 29.1.2019 and the counsel was engaged thereafter to prepare grounds of appeal and hence delay of 190 days occurred, as the file has to process through various channels till the competent authority decides to prefer the appeal in filing the appeal which is procedural delay from one end to the another, taking opinion from the counsel etc.”

When the case is 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 reason for condoning inordinate delay of 190 days in filing the appeal more particularly in the circumstances that till date the respondents-claimants have not been paid even a single penny in respect of an occurrence that took place more than three years ago. In this view of the matter, the application filed by the applicants-appellants for condoning delay is liable to be dismissed and ordered accordingly.

For the foregoing reasons, the appeal is dismissed being barred by limitation.

(Rekha Mittal)
Judge

11.4.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No