

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

FAO-1954-2013(O&M)

Date of decision:-13.2.2019

Smt.Binder and others

...Appellants

Versus

Milkha Singh and another

...Respondents

**CORAM: HON'BLE MR.JUSTICE H.S.MADAAN**

Present: Ms.Shreya Vashishtha, Advocate for  
Mr.Namit Sharma, Advocate  
for the appellants.

Ms.Divya Godara, Advocate  
for the respondent No.2.

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**H.S. MADAAN, J.**

On account of death of Sh.Satbir @ Satta, in a motor vehicular accident, which took place on 15.4.2005 near Pucca Khera, Chowk village Peont within the jurisdiction of Police Station Nissang, allegedly on account of negligence of respondent No.1 Milkha Singh, driver of truck bearing registration No.HR-21-3089, who had parked his truck in the middle of the road without giving any indicator in violation of the traffic rules, Smt. Binder Kaur - wife, Aashish - minor son Shivani @ Mamta – minor daughter and Hawa Singh – father of the deceased had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against respondents i.e. Milkha Singh – driver and Baldev Singh – owner of the truck. That claim petition was allowed partly by Motor

Accidents Claims Tribunal, Karnal and compensation of Rs.1,50,000/- was awarded along with interest @ 7.5% per annum from the date of filing of the claim petition till recovery. Certain other terms and conditions were imposed with regard to handing over of compensation amount to the claimants.

Feeling aggrieved by the said award, the petitioners/claimants filed an appeal before this Court, notice of which was given to the respondents.

I have heard learned counsel for the parties besides going through the record.

The appeal has not been filed within the period of limitation. An application bearing CM-9571-CII of 2013 under Section 5 of the Limitation Act for condonation of delay of 1319 days in filing the appeal has been filed for the reason that appellants did not know about the procedure and limitation for filing of the appeal and after arranging funds, they came to Chandigarh on 4.3.2013 for engaging counsel for filing the appeal and then they came to know that the limitation for filing the appeal had already expired; that the delay was not intentional but for the said reason, therefore it be condoned.

The application is being opposed vehemently on behalf of the respondent No.2.

After hearing the rival contentions of the parties, I find that no cogent and convincing reason for condonation of delay has been put forward.

Section 3 of the Limitation Act, 1963 deals with Bar of

Limitation providing that every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed although limitation has not been set up as a defence.

Section 5 of that very Act provides that any appeal or any application may be admitted after the prescribed period if the applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period.

Ignorance of law is no excuse. Stating that the claimants were not aware of period of limitation and as such could not approach the Court within time would not help them in getting the delay condoned. If the delay was of a few days then this explanation might have been considered sympathetically but not when the delay is of more than three years. It has also to be taken into consideration that the appellants as per their own admission had contacted their counsel at Chandigarh on 4.3.2013 and appeal was filed on the very next day i.e. 5.3.2013. The plea that after arranging funds, they had approached the counsel also does not make much sense since if the claimants are in financial constraints they could have got the appeal filed through Legal Aid Counsel. Thus no justifiable reason is there to accept the application under Section 5 of the Limitation Act and condone the delay of more than 3 years in filing of the appeal. The application is, therefore, dismissed.

Resultantly, the appeal is also dismissed being time barred.

13.2.2019  
Brij

**(H.S.MADAAN)**  
**JUDGE**

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**