

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

FAO-2577-2013(O&M)

Date of decision:-10.9.2019

Lajja Ram and another

...Appellants

Versus

Sunita and others

...Respondents

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

Present: Mr.Hardeep Singh, Advocate
for the appellants.

Mr.R.C. Kapoor, Advocate
for respondent No.3.

H.S. MADAAN, J.

CM-12352-CII-2019

This is an application under Section 5 of the Limitation Act for condonation of three days of delay in filing the application for restoration of the appeal.

Heard.

For the reasons mentioned in the application, the same is allowed and delay of three days in filing of restoration application stands condoned.

CM-12355-CII-2019

This is an application under Order 41 Rule 19 CPC for restoration of the appeal.

Heard.

For the reasons mentioned in the application, the same stands allowed and the appeal is restored at its original number and is being taken up for disposal.

FAO-2577-2013(O&M)

On account of death of Rohtas alias Rohit Kumar, aged about 16 years and a student of 10th class in a motor vehicular accident, which took place on 15.10.2005 at about 2:45 p.m. in the area of bus stand Sarseeni, Police Station Lalru, statedly on account of rash and negligent driving of bus bearing registration No.HR-69-2013(hereinafter referred to as the offending bus) by its driver Sukhbir Singh, parents of deceased, namely his father – Lajja Ram aged about 60 years and mother – Main Kaur aged about 57 years had brought a claim petition under Section 166 of the Motor Vehicles Act against respondents i.e. legal representatives of deceased – driver Sukhbir Singh as well as Depot Manager, Haryana Roadways, Sonapat – owner and National Insurance Company Ltd. - insurer of the offending bus before Motor Accidents Claims Tribunal, Patiala (hereinafter referred to as the Tribunal), claiming compensation to the tune of Rs.20 lakhs along with interest.

Notice of the claim petition was given to the respondents, who put in appearance and filed written statements contesting the claim petition. Issues on merits were framed. The parties were afforded adequate

opportunities to lead evidence.

After hearing arguments, the claim petition was allowed by the Tribunal vide award dated 29.11.2008 and compensation of Rs.2,30,000/- along with interest @ 9% per annum from the date of filing of the claim petition till actual realization was awarded to the claimants payable by the respondents with the observations that the respondent No.3 insurance company would be liable to pay compensation to the claimants since the offending vehicle was insured with it at the time of accident. The amount was ordered to be apportioned equally between the claimants.

The claimants felt aggrieved by the said award and have approached this Court by way of filing an appeal seeking enhancement of compensation awarded to them. Since the appeal was filed belatedly by 1454 days, an application bearing No.CM-11972-CII of 2013 under Section 5 of the Limitation Act was filed praying for condonation of delay in institution of the appeal contending that since the appellants are old aged persons not having knowledge of law, therefore, they could not institute the appeal within time; that the delay was not intentional or wilful, therefore, it should be condoned. Notice of motion was issued to respondent No.3 – insurance company, which had appeared and filed reply to the application opposing it vehemently.

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

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.

The reasoning given for belated filing of the appeal is least convincing. Ignorance of law is no excuse. If the appellants could file the claim petition, pursue it and taking the things to the logical end by getting an award in their favour, they could not be expected to be so ignorant not knowing that an appeal was to be filed within period of limitation prescribed by law. They being of old age is not a justifiable reason for so much delay running into about 4 years.

Under the circumstances of the case, the condonation of such a huge delay is not called for.

The application is, therefore, dismissed. The appeal is also dismissed being time barred.

10.9.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No