

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

-.-

FAO 538 of 2016 (O&M)

Date of decision: 21.08.2019

Deepak

.....Appellant

Versus

Ram Mehar and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. V S Punia, Advocate
for the appellant

Mr. Gopal Mittal, Advocate
for respondent No. 3

-.-

Rekha Mittal, J. (Oral)

Challenge in the present appeal has been directed against award dated 24.08.2011 passed by the Motor Accidents Claims Tribunal, Jind (in short, 'the Tribunal') whereby application for grant of compensation under Section 163-A of the Motor Vehicles Act, 1988 in respect of injuries sustained by the appellant in a motor vehicular accident that took place on 24.04.2009 was dismissed. Along with the appeal, an application has been filed for condoning delay of 1480 days.

Counsel for the applicant/appellant would argue that delay in filing the appeal is neither intentional nor *mala fide*. It is further submitted that technicalities or procedural delay should not be allowed to stand in the way of substantial justice, therefore, delay in filing the appeal may be condoned.

Counsel representing the insurance company, on the contrary, would argue that the applicant has failed to make out a case much less sufficient cause for condoning huge delay of 1480 days in filing the appeal, therefore, the application deserves to be dismissed.

I have heard counsel for the parties and perused the paper book.

A relevant extract from para 2 of the application reads as follows:-

“That initially the appellants were in a frustrated condition due to the injury sustained in the accident and took time for recovery and was also under the impression that the papers of the case have been entrusted to the advocate and during the prescribed time for the filling of the case in Hon'ble High Court petitioner asked/authorized his relative to consult advocates of the high court and district courts for filling the appeal and under the impression that his case has been filed in the high court within limitation but actually he did not entrust the papers and now he found his papers and now the appellants procured money and papers for filling of appeal in this Hon'ble Court and due to the reason a delay of 1480 days occurred in filing the appeal.”

Perusal of the aforesaid extract reveals that averments raised therein are quite vague and uncertain. The applicant has not disclosed name of the relative who was authorized to engage a counsel in the High Court for filing an appeal, sufficient to show that aforesaid averments are patently false. This apart, it is difficult to believe that a person would not bother to know about fate of his appeal for a period of more than four years even if he has instructed his relative to file the appeal in the High Court. No doubt, the

Court is required to adopt a liberal approach while dealing with issue of condonation of delay but at the same time, the Court is obligated to consider if there are sufficient grounds for condoning delay in filing the appeal. Since in the present case, the applicant/appellant has failed to plead facts constituting sufficient ground for condoning delay of more than four years, it is difficult to accept contention of the applicant that appeal is required to be decided on merits after condoning delay of 1480 days. As such, the application sans merit and deserves to be dismissed.

In view of what has been discussed herein-above, the application for condoning delay in filing the appeal is dismissed. As a natural corollary, the appeal is dismissed being barred by limitation.

(Rekha Mittal)
Judge

21.08.2019
Mohan Bimbura

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No