

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

FAO No.6828 of 2016 (O&M)

Date of Decision: 11.03.2019

Sub Divisional Officer, Sub Division No.2, UHBVN, Kaithal and others

... Applicants-Appellants

Versus

Smt. Dhillo Devi

... Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Namit Kumar, Advocate for the applicants-appellants

Rekha Mittal, J. (Oral)

The appellants have filed the appeal to assail quantum of compensation awarded by the Commissioner under the Employees' Compensation Act, 1923 in regard to death of Paras Dev in an accident that took place on 20.05.2009.

Alongwith the appeal, applications, CM Nos.23741-42-CII 2016 have been filed under Section 5 of the Limitation Act for condonation of delay of 122 days in filing and 33 days in refiling the appeal.

The plea of the applicants-appellants raised in para 2 of the application (CM No.23741-CII of 2016) reads as follows:-

“That the certified copy of the award/order dated 29.07.2015 was received on 05.10.2015 by post and thereafter, a communication dated 06.10.2015 was addressed by the Sub Divisional Officer, Sub Division No.II, UHBVN, Kaithal to the Legal Remembrancer, HVPNL, Shakti Bhawan, Sector 6, Panchkula seeking their advice for filing an appeal or implementation of the order. Thereafter, the office of the Legal Remembrancer, HVPNL directed to file an appeal and consequently, the appeal has been prepared and is being filed before this Hon'ble Court and in this process a delay of 122 days has occurred which is bonafide and unintentional and has occurred for the reasons mentioned hereinabove.”

Counsel for the applicants-appellants 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.

I have heard counsel for the applicants-appellants and perused the paper book.

When the facts and circumstances of the present case are examined in the light of judgment of Hon'ble the Supreme Court **Office of the Chief Post Master General & Ors. Vs. Living Media India Ltd. & Anr., 2012 AIR(SC) 1506** and 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** alongwith connected cases, there is no sufficient cause for condoning huge delay of more than four months. As a consequence, application for condonation of delay in filing the appeal 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.

In view of the above, application for condonation of delay in refiling the appeal is of academic relevance.

No order as to costs.

(Rekha Mittal)
Judge

11.03.2019

ashok

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