IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 12.03.2019

FAO 7091 of 2016 (O&M)

Ass Mohd. ....*Appellant*

Versus

Mohd. Sharif and another ....*Respondents*

FAO 7267 of 2016 (O&M)

Babudin ...*Appellant*

Versus

Mohd. Sharif and another ..*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Barjinder Singh, Advocate
for the appellant

Mr. Varun Sharma, Advocate
for Mr. Satpal Dhamija,Advocate
for the respondent insurance company

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Rekha Mittal, J. (Oral)

CM 24389-CII of 2016

Prayer in this application is for condoning delay of 832 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit and arguments advanced, the application is allowed and delay of 832 days in filing the appeal stands condoned.

Main case

This order will dispose of aforesaid appeals as these have emerged out of the same incident dated 13.07.2010 in which Ass Mohd. and Babudin sustained injuries.

The sole submission made by counsel for the appellants is that since respondent No. 1-Mohd. Sharif, owner of vehicle bearing No. HR-47/A-9847, employer of the appellant did not cause appearance in the proceedings before the Commissioner under the Employees' Compensation Act, 1923, there was no obligation with the Commissioner to issue a show cause notice calling upon him as to why penalty be not imposed for his failure to pay compensation within one month, in view of provisions of the Act.

The impugned order was passed on 31.01.2014 and a period of more than five years has elapsed in between. Counsel for the appellant is not in a position to say something as to what happened to the proceedings initiated by the Commissioner for imposing penalty after service of show cause notice upon the employer. A question with regard to payment of penalty is required to be decided by the Commissioner, in accordance with law. In the given scenario, the present appeals are disposed of with liberty to the appellant to approach the Commissioner concerned for deciding the question of imposing penalty. The Commissioner concerned is directed to decide the question of imposing penalty within a period of three months from the receipt of certified copy of the order, if the same is still pending decision.

(Rekha Mittal)
Judge

12.03.2019
Mohan Bimbra

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