

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

-:-

FAO 7345 of 2016 (O&M)
Date of decision: 18.01.2019

Saroj and others

.....Appellants

versus

M/s Competent Transport Pvt Limited and another

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. Manoj Kumar Sood, Advocate
for the appellants

None for respondent No. 1

Mr. Abhimanyu Batra, Advocate
for respondent No. 2

-:-

Rekha Mittal, J. (Oral)

CM 25136 CII of 2016

Prayer in this application is for condoning delay of 2 days in re-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 2 days in refiling the appeal stands condoned.

CM 25137 CII of 2016

Prayer in this application is for condoning delay of 159 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 159 days in filing the appeal stands condoned.

Main case

The present appeal directs challenge against order dated 13.07.2015 passed by the Commissioner, Employees' Compensation Act, Faridabad whereby compensation has been assessed on account of death of Ram Roop working as Driver on Container bearing No. HR 55/R 1349 under the employment of M/s Competent Transport Private Limited.

Counsel for the appellants would inform that the only grievance expressed in the present appeal is with regard to non-grant of penalty to be paid by employer of the deceased who failed to pay compensation within a period of thirty days from the date of occurrence.

The Insurance company cannot be fastened with liability to pay penalty in absence of any clause in policy of the insurance whereby the insurer has undertaken its liability to pay penalty as well. There is nothing on record suggestive of the fact that the Commissioner had issued show cause notice calling upon it as to why the penalty in view of provisions of the Act be not imposed. In view of the above, interest of justice commands that the present appeal is disposed of but the appellants are left at liberty to file an appropriate application before the Commissioner for deciding the issue of penalty.

For the foregoing reasons, the appeal stands disposed of. However, the appellants are given liberty to file an application before the Commissioner for payment of penalty. In case, such an application is filed, the same shall be decided on merits after providing an opportunity of being

heard to the employer namely M/s Competent Transport Pvt. Limited.

(Rekha Mittal)
Judge

18.01.2019
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