

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

-.-

FAO 3827 of 2012 (O&M)

Date of decision: 14.03.2019

Xen. Switchyard MTC. Division

.....Appellant

Versus

Kundan Lal

.....Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Sudhir Hooda, Advocate
for the applicant/appellant

Ms Abha Rathore, Advocate
for the respondent

-.-

Rekha Mittal, J. (Oral)

The present appeal directs challenge against order dated 10.02.2012 whereby compensation has been assessed on account of injuries sustained by Kundan Lal son of Shri Siri Ram in an accident that took place on 19.08.2004.

Besides challenging the impugned order on merits, counsel for the appellant would urge that in respect of injuries sustained in August 2004, the claim was preferred in March 2009, therefore, application for grant of compensation is clearly barred by limitation. He would apprise the Court that the respondent/applicant filed an application for condoning delay and the same was allowed by the Commissioner vide order dated 28.01.2011 but the said order cannot stand the test of judicial scrutiny being non-speaking and cryptic. He would pray that order dated 28.01.2011 and

impugned award may be set aside and the matter be remitted to the Commissioner for decision of application for condoning delay afresh and if the same is allowed, to decide the matter on merits.

Counsel representing the respondent/claimant, on the other hand, would pray that the order allowing application for condoning delay may be set aside and matter be remitted to the Commissioner for deciding the application afresh but in case the application for condonation of delay is decided in favour of the claimant, the impugned award may be kept intact with liberty to the appellant to file an appeal against the order allowing application for condoning delay as well as impugned award. She would further contend that as per *catena* of judgments on the issue, delay can be condoned and the appellant-corporation cannot escape its liability to pay compensation qua entitlement of the respondent/claimant.

At present, there is a serious issue with regard to application for compensation having been filed beyond prescribed period of limitation. Perusal of copy of order dated 28.01.2011 made available during course of hearing would reveal that the Commissioner has not assigned any reason much less followed process of reasoning for condoning delay in filing application.

A relevant extract from order reads thus:-

“Today arguments heard on miscellaneous application for condonation of delay. The application of applicant for condonation of delay is allowed.”

There cannot be dispute that reasons are the soul of an order passed by a judicial or quasi judicial authority. Since in the present case, the Commissioner has not assigned any reason for condoning delay, order

dated 28.01.2011 cannot stand the test of judicial scrutiny and liable to be set aside. As such, the matter is remitted to the Commissioner concerned or his successor for deciding application for condonation of delay afresh. In case, application for condonation of delay is allowed, impugned order dated 10.02.2012 shall remain intact but the appellant would be at liberty to challenge the order condoning delay as well as order dated 10.02.2012 with regard to assessment of compensation.

Parties through their counsel are directed to appear before the Commissioner on 11.04.2019. The Commissioner shall decide the application for condonation of delay afresh within two months of the parties putting in appearance. In the meantime, the amount deposited by the appellant shall be converted into fixed deposit payable subject to final decision in the matter by this Court.

(Rekha Mittal)
Judge

14.03.2019
Mohan Bimbura

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