

In the High Court of Punjab and Haryana at Chandigarh

**CM No. 167-CII of 2019 in/and
FAO- 30 of 2019(O&M)
Date of Decision: 20.2.2019**

United India Insurance Company Limited

---Applicant-Appellant

versus

M/s Metso Minerals (India) Private Limited and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Vishwajit Bedi, Advocate
for the applicant-appellant**

Rekha Mittal, J.

The appellant insurance company has filed the appeal to assail quantum of compensation awarded by the Commissioner under the Employees' Compensation Act, 1923 in regard to death of Rajender Sharma in a motor Vehicular Accident that took place on 1.5.2013

Alongwith the appeal, an application, CM No. 167-CII 2019 has been filed under Section 5 of the Limitation Act for condonation of delay of 254 days in filing the appeal. The plea of the applicant-appellant raised in para 2 of the application reads as follows:-

“That the Ld. Commissioner under the Employees Compensation Act. 1923, Rewari has passed the order dated 29.1.2018 and thereafter, the copy of the order was applied by

the Ld. Counsel for the Insurance Company on 21.2.2018 and the certified copy of the award has been received on 20.3.2018 and thereafter, the Ld. Counsel for the Insurance company has given his legal opinion for filing an appeal before this Hon'ble Court on 20.3.2018 to the Divisional Office, Gurgaon and thereafter the Divisional Office has again took the legal opinion from Sh. Navdeep Singh, Advocate in the present case and the Ld. Advocate has given his opinion on 19.4.2018 to Division Office, Delhi for filing an appeal in the present case and due to the official formalities of the Department, the department have go through the lengthy procedure for filing an appeal before this Hon'ble Court and on account of this reason delay has occurred in filing the appeal.”

Counsel for the applicant-appellant 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 applicant-appellant and perused the paper book.

The present appeal has been preferred to assail liability of the insurance company to indemnify the insured and quantum of compensation.

Counsel for the applicant-appellant, in response to a query, would inform that insurance company has already deposited the amount

with the Commissioner under the Employees Compensation Act, 1923. When the facts and circumstances of the present case are examined in the light of judgment 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 eight months. As a consequence, application for condonation of delay 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. No order as to costs.

(Rekha Mittal)
Judge

20.2.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No