

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

245

FAO No.1982 of 2017 (O&M)

Date of decision: 03.02.2020

UNITED INDIA INSURANCE CO LTD

... Appellant

Versus

YOGESH DEVI & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. RK Bashamboo, Advocate for the applicant-appellant.
Mr. Barjinder Singh, Advocate for the claimants.

REKHA MITTAL, J. (Oral)

CM No.6703-CII of 2017

Heard.

Allowed as prayed for. Delay of 32 days in re-filing the appeal stands condoned.

Main Case

Challenge in the present appeal has been directed against award dated 08.11.2012 passed by the Motor Accidents Claims Tribunal, Nuh whereby compensation has been assessed on account of death of Neepu Singh @ Neepu in a motor vehicular accident that took place on 13.12.2002.

Along with appeal, an application (CM No.6704-C of 2017) has been filed under Section 5 of the Limitation Act for condoning delay of 1398 days in filing the appeal.

Counsel for the applicant-appellant, in line with the averments raised in paras 3 and 4 of the application, would argue that delay in filing is neither intentional nor malafide. It is further submitted that substantial right of the parties should not be allowed to suffer on technical considerations.

Counsel representing the respondents/claimants has seriously contested plea of the appellant that there are sufficient grounds for condoning inordinate delay of almost four years in filing the appeal.

Perusal of averments raised in para 3 of the application would reveal that the appellant filed an application under Order 9 Rule 13 CPC for setting aside ex parte award which was dismissed on 24.05.2016. Meaning

thereby that the appellant knew about passing of the award at least when the application for setting aside ex parte award was filed which came to be dismissed on 24.05.2016. Even after dismissal of the application for setting aside ex parte award, the present appeal has been filed in March, 2017. In the given circumstances, it is difficult to accept contention of the applicant that there are sufficient and justifiable grounds to condone a huge delay of 1398 days in filing the appeal. Accordingly, the application for condonation of delay in filing the appeal is dismissed. As a natural corollary, the appeal is dismissed being barred by limitation.

03.02.2020

(REKHA MITTAL)
JUDGE

ashok

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