

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

Date of decision: 27.02.2020

**CM No.24376-CII of 2018 in/&
FAO No.6890 of 2018 (O&M)**

Santokh Singh

...Appellant

Vs.

Pritpal Singh & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Gurjinder Singh Thind, Advocate, for the appellant.

RAJIV NARAIN RAINA, J. (ORAL)

1. The instant appeal for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Hoshiarpur is brought by the claimant, father of the deceased Jagdeep Singh, together with CM No.24376-CII of 2018 for condoning the delay of 116 days in filing the appeal.

2. In the application under Section 5 of the Limitation Act, following grounds have been set out in paragraph No.2 to show sufficient cause for the delay in presenting the appeal:

“2. That the appellant was not in the knowledge that there is remedy for enhancement of the award passed by the learned Tribunal. A relative told him on 04.05.2016 that appellant could file an appeal before this Hon’ble Court for the enhancement of inadequate award passed by the MACT, Hoshiarpur.”

3. Having heard learned counsel for the appellant, the question that falls for consideration is what amounts the ‘sufficient cause’ to condone the delay in preferring an appeal against the award of the Tribunal. The

address is to the facts and circumstances pleaded in the application on a case to case basis.

4. A reading of the contents of the application, as reproduced above, indicates that the claimant was informed by his relative (unknown) for filing appeal before this Court. It is relevant to state that the claimant was represented by an Advocate before the Tribunal. Thus, there was total lack of seriousness on the part of the appellant in taking steps to prefer an appeal within the time prescribed by law. It is also required to be noticed that the insurer had or had not deposited the compensation awarded before the Tribunal and such compensation has been received by the claimant or not.

5. In fact, the affidavit accompanying the application is silent on these material aspects. Claimant is required to be diligent in prosecuting his claim before the higher forum in case he feels aggrieved by the award. It is no doubt true, length of delay would not be the deciding factor, but if the cause has been explained properly, technicalities will have to yield to substantial justice but otherwise not. If there was any genuine cause for the claimant in not filing this appeal and if the same is explained in the affidavit supporting the application by a plausible disclosure, this Court would have examined the appeal on merits. But for the cause being insufficient and there being no explanation whatsoever forthcoming from the affidavit supporting the application, this Court cannot shut its eyes and condone delay in a cavalier fashion. No litigant would stand to benefit in approaching the Court belatedly. Apart from the delay in filing the appeal, there is huge delay of 647 days in re-filing the appeal as well though due to the mistake of the Clerk attached to the counsel for the appellant. The law always abhors delays as the legal maxim goes: *Lex dilationes semper exhorret*. General and

vague averments contained in the prime-mover application without any precision or candid disclosure and striking feature do not constitute sufficient cause within the contours of Section 5 of the Limitation Act, 1963 to condone the delay, if they are to be obeyed.

6. Thus, I have no proper occasion to enter upon the merits of this case and would dismiss the application under Section 5 of the Limitation Act, 1963 seeking casually condoning the delay in filing the appeal, however much the counsel protests that the delay is not intentional and is also marginal. The appellant must remember that when limitation prescribed for an appeal expires, the award of the Tribunal turns final for all the stakeholders.

7. Consequently, the application seeking condoning delay in presenting the appeal is declined and as a result the main appeal is dismissed.

27.02.2020
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>Yes</i>