

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM No.7602-CII of 2021 in/and
FAO No.849 of 2021 (O&M)
Date of decision:26.08.2021

Rajpal

... Appellant

Versus

Smt. Sheela and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Jagjeet Beniwal, Advocate, for the applicant-appellant.

(The proceedings are conducted through video
conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

The present appeal is barred by 1535 days in filing the appeal against the award of the Motor Accident Claims Tribunal, Bhiwani, dated 09.03.2017, which is being filed by the owner of the vehicle.

Vide the impugned award, a sum of Rs.25,60,000/- was awarded on account of the death of Ram Avtar in the accident, which took place on 09.07.2014. The liability has been fixed upon the present appellant being the owner as the license of the driver was fake, whereas the Insurance Company was ordered to pay the amount of compensation and recover the same from the owner of the offending vehicle. The reason given for delay in filing the appeal is that the counsel engaged by the appellant before the Tribunal had informed the appellant that the Insurance Company had been held liable to pay the compensation and no further action was required to be taken by him. On account of the demand notice dated 17.06.2021, which has now been received, the knowledge is stated to have come to the appellant regarding the factum that the award had been passed against him. On the said account, it

has been contended that the delay is neither intentional nor willful and the

same is sought to be condoned.

In the considered opinion of this Court, sufficient cause is not made out to condone the delay. The appellant was represented by common counsel who had also appeared for the driver before the Tribunal and duly contested the proceedings and being owner of the dumper, he was using it for commercial purposes. It was his duty, as such, to peruse the award of the Tribunal to his satisfaction to find out that the liability, as such, was imposed on him or not. It was the specific case before the Tribunal of the Insurance Company that the driver of the offending vehicle was not holding a valid and effective driving license and, therefore, the proceedings had been accordingly conducted in that manner. The appellant also did not appear as a witness to defend the case. The appellant should have been well aware that in view of a adverse decision of the Tribunal the responsibility could have been shifted upon him and now cannot plead ignorance, as such, regarding the factum that the liability was imposed upon him vide the award which had been passed more than 4 years back.

It is also matter of record that the Insurance Company, as such, had also challenged the said award by filing FAO No.3416 of 2017, in which the award was only modified to the extent that the amount of compensation was reduced to Rs.24,98,000/- from Rs.25,60,000/- on 20.11.2019. Similarly, FAO No.493 of 2018, filed by the claimants, was also rejected vide order of the even date.

The law of limitation may be harsh but sufficient cause should have been shown, which, in the present case, is not made out. Reliance in this regard can be placed upon a judgment of the Supreme Court rendered in the

case of **Balwant Singh vs. Jagdish Singh and others**, 2010 AIR (SC) 3043.

Relevant portion reads as under:

“16. Above are the principles which should control the exercise of judicial discretion vested in the Court under these provisions. The explained delay should be clearly understood in contradistinction to inordinate unexplained delay. Delay is just one of the ingredients which has to be considered by the Court. In addition to this, the Court must also take into account the conduct of the parties, bona fide reasons for condonation of delay and whether such delay could easily be avoided by the applicant acting with normal care and caution. The statutory provisions mandate that applications for condonation of delay and applications belatedly filed beyond the prescribed period of limitation for bringing the legal representatives on record, should be rejected unless sufficient cause is shown for condonation of delay. The larger benches as well as equi-benches of this Court have consistently followed these principles and have either allowed or declined to condone the delay in filing such applications. Thus, it is the requirement of law that these applications cannot be allowed as a matter of right and even in a routine manner. An applicant must essentially satisfy the above stated ingredients; then alone the Court would be inclined to condone the delay in the filing of such applications.”

In such circumstances, this Court is not inclined to condone the delay of 1535 days in filing the appeal and hence, the application is dismissed in the absence of any sufficient cause having been made out and also on account of the inordinate delay.

Resultantly, the main appeal also stands dismissed.

August 26, 2021
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(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No