

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

FAO-2325-2020(O&M)

Date of decision:-23.11.2022

Monika and others

...Appellants

Versus

Satbir and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Abhishek Yadav, Advocate
for the appellants.

H.S. MADAAN, J.

1. Deceased Vikram had died in a motor vehicular accident, which took place on 7.12.2014, while he along with some other persons was travelling in Xylo vehicle No.HR66A-3923 driven by Vijay Pal and at about 1:30 a.m., when they had reached in the area of Fatehpur near Shani Mandir, in the meanwhile, a truck bearing registration No.HR63-B-8130 (hereinafter referred to as the offending vehicle) being driven by respondent No.1 Satbir in a rash and negligent manner came from the side of Narnaul and while going towards Ateli, the driver suddenly took a turn on wrong side and dashed against the Xylo vehicle in which Vikram and others were travelling. All three of them suffered multiple injuries. As a

matter of fact Vikram had died at the spot. Alleging that the accident had been caused due to rash and negligent driving of the offending vehicle, the claimants had preferred two claim petitions against Satbir – driver, Pawan – owner and United India Insurance Company Ltd. - insurer of the offending vehicle. The claim petition filed by Monika and others was clubbed with another claim petition titled 'Krishan Kumar and another Versus Satbir and others' arising out of the same accident. Vide award dated 17.10.2016, the claim petitions were accepted and compensation of Rs.15,67,000/- was awarded to Monika and others petitioners in claim petition bearing MACT Petition No.06 of 2015, whereas compensation of Rs.8,25,884/- was awarded to Krishan and others, petitioners in claim petition bearing MACT Petition No.35 of 2015. The liability to pay the amount was held to be joint and several.

2. The appellants Monika and others, claimants in claim petition bearing MACT Petition No.06 of 2015 dissatisfied with the amount of compensation awarded to them have preferred the present appeal but it has been filed after a long delay of 1124 days. An application under Section 5 of the Limitation Act bearing CM-6502-CII of 2020 for condonation of such delay has been filed.

3. I have heard learned counsel for the applicant/appellants besides going through the record.

4. Section 3 of the Limitation Act, 1963 deals with Bar of Limitation providing that every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed although limitation has not been set up as a defence.

Section 5 of that very act provides that any appeal or any application may be admitted after the prescribed period if the applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period.

5. The purpose of enacting the limitation act was that the aggrieved persons may seek legal remedy within stipulated period and the affected persons may not have the democlean sword hanging over their head for a long time.

6. The appeal filed is hopelessly barred by time. No cogent and convincing reason with regard to such huge delay in approaching the Court has been mentioned. The reason given is that appellants could not file the appeal within limitation because they had engaged Sh.Arun Yadav, Advocate but on account of his sad demise in the month of April, 2018, on coming to know about death of their earlier counsel, appellants had engaged a new counsel for filing the appeal. Therefore, lot of time was consumed in doing that.

7. In terms of Article 116 in the Schedule of the Limitation Act, the limitation to file an appeal to the High Court is 90 days from the date of the order.

8 This explanation is least convincing. Ignorance of law is no excuse. If for any compelling reasons, the appellants are unable to approach the Court within time and they want the delay, which had taken place should be condoned, they must render a reasonable and plausible explanation, which in this case is missing. Therefore, no cogent and convincing reason is there to condone such huge delay of more than three

years in filing of the appeal.

9 Under the circumstances of the case, the condonation of such a huge delay is not called for.

10. The application is, therefore, dismissed. The appeal is also dismissed being time barred.

23.11.2022
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No