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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-424-2021 (O&M)

Date of Decision: 16.11.2022

Vikram Singh

.. Appellant

Vs.

Ranjeet Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Amit Khatkar, Advocate for the appellant.

...

Manoj Bajaj, J. (Oral)

The appellant has filed this appeal to challenge the award dated 30.12.2015 passed by the Commissioner, Hisar under Employees' Compensation Act, 1923, whereby claim petition by claimants (respondent Nos.1 and 2) was accepted and a sum of Rs.8,47,160/- was awarded as compensation towards accidental death of victim Rajesh Kumar.

The appeal carries a delay of 1828 days and as per the averments in the application, the impugned award dated 30.12.2015 was passed *ex parte*, therefore, the appellant was not aware of these proceedings and after passing of the award, he applied for recalling of the award along with an application for staying the recovery proceedings, however, the said application was dismissed vide order dated 27.01.2021 (Annexure A-1).

According to the appellant, this resulted in delay in filing the appeal and the same is *bona fide*, therefore, it is prayed that the delay in filing the appeal be condoned.

During the course of hearing, it is not disputed by learned

counsel that after passing of the impugned award on 30.12.2015, initially

the application for recalling was filed in the year 2016 and the same was dismissed on 28.12.2016. Learned counsel fairly states that the appeal was filed after dismissal of the subsequent application for recalling the *ex parte* award, which was dismissed on 27.01.2021.

Upon hearing the learned counsel and considering the averments and material on record, this Court finds that the appellant was well aware of this impugned *ex parte* award in the year 2016, when he moved the application for recalling and the same was dismissed on 28.12.2016. This clearly shows that the appellant has failed to explain each and every day's delay in filing this appeal, therefore, this Court is not inclined to condone the delay in filing the appeal.

Apart from it, the award was passed against M/s Mahaluxmi Roadlines, whereas the appeal has been filed by Vikram Singh. Even, the statutory amount required to be deposited in terms of Section 30 Employees' Compensation Act, 1923 has not been deposited by the appellant, therefore, the appeal is otherwise not maintainable.

Resultantly, the application under Section 5 Limitation Act, 1963 as well as the appeal are hereby dismissed.

16.11.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No