IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5036-2022(O&M)
Date of decision:-29.11.2022

SHRIRAM General Insurance Company Ltd.
...Appellant

Versus

Gurdeep Singh and others
...Respondents

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

Present: Mr.Sanjeev Kodan, Advocate
for the appellant.

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H.S. MADAAN, J.

1. Briefly stated, facts of the case are that on account of death of Gurlal Singh son of Gurdeep Singh, resident of village Nathu Chak, District Tarn Taran on 26.8.2016 due to the injuries suffered by him in a motor vehicular accident, which took place in the area of village Lauhka near petrol pump due to rash and negligent driving of Innova car bearing registration No.PB-30-K-9546 (hereinafter referred to as the offending vehicle) driven by respondent No.1 Vicky, legal representatives of such deceased, namely, his father – Gurdeep Singh, aged about 49 years, mother – Kulwinder Kaur aged 48 years, sister Manpreet Kaur aged about 25 years, brother Gurpinder Singh aged 18 years and another sister Simarjit Kaur aged 27 years, had brought a claim petition against Vicky – driver/owner and Shriram General Insurance Company – insurer of the

offending vehicle, claiming compensation.

2. After contest, Motor Accidents Claims Tribunal, Tarn Taran (hereinafter referred to as the Tribunal) vide award dated 27.2.2019 allowed the claim petition and awarded compensation of Rs.19,64,000/- to the claimants in equal proportions, payable with interest @ 6% per annum from the date of filing of the claim petition till actual realization. The liability to pay this amount being joint and several.

3. Finding the compensation so awarded to be on higher side, respondent No.2 – insurance company has filed the present appeal.

4. The appeal has not been filed within period of limitation, rather it has been filed belatedly by 513 days. An application bearing CM-16485-CII-2022 has been filed for condonation of such delay, giving the reason that after receipt of certified copy of the award on 26.7.2022, the record was sent to the office of the insurance company, however certified copy of the award got misplaced and subsequently it was found. Thereafter, DD No.005010 dated 29.9.2022 was got prepared for filing the appeal and then it was filed in the Court.

5. I have heard learned counsel for the appellant insurance company besides going through the record and I find that no reason is made out for condonation of such huge delay in filing of the appeal.

6. 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.

7. It comes out to be a case of lethargic working of the officials of the insurance company. Firstly with regard to the award passed on 27.2.2019, application for supplying its certified copy was filed on 20.7.2022 i.e. after about 3 years and 5 months and thereafter the certified copy of the award was misplaced. It is certainly not a case of unintentional delay, rather delay seems to be deliberate and intentional. Otherwise, why it took more than 3 years and 5 months for the officials of appellant – insurance company to apply for certified copy of the award and then after getting the copy dealing with it so carelessly so it got misplaced and then on one fine morning filing the appeal. No sympathy can be shown to such type of negligent and irresponsible litigant.

8. Absolutely no ground is made out for condonation of such huge delay in filing the appeal. The limitation for filing an appeal in this Court is 90 days from the date of order in terms of Article 116 of the Limitation Act. The appeal is hopelessly time barred. The application stands dismissed.

9. Even on merits, the appellant does not have any case. The compensation awarded to claimants by the Tribunal cannot be termed to be excessive or arbitrary, rather the same comes out to be just and reasonable. Another person by the name of Ravi Karan Singh had also perished in the accident along with Gurlal Singh deceased. His LRs had also brought a claim petition petition, which had been allowed by the

Tribunal and compensation of Rs.20,44,400/- had been awarded. The monthly income of that deceased had been assessed to be Rs.9,000/- per month in respect of a skilled worker as has been done in the present case with regard to death of Gurlal Singh. The argument advanced on behalf of the appellant insurance company that minimum wages payable to semi-skilled worker tot he tune of Rs.7990.52 should have been taken was rejected holding that assessment of notional income by the Tribunal may depend upon various factors like guess work, guidelines by higher Courts or other attending circumstances and such a figure cannot be determined with precision or accuracy, particularly when the insurance company has chosen not to contest the claim, much less by leading any evidence relating to the material issues. The said appeal filed by the insurance company bearing FAO-3874-2022(O&M) has been dismissed by a Co-ordinate Bench of HMJ Manoj Bajaj vide order dated 15.9.2022. For that reason also as well as the appeal being time barred it is dismissed accordingly.

29.11.2022 **(H.S.MADAAN)**
Brij **JUDGE**

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No