

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

112

FAO-2799-2019 (O&M)
Date of decision: 02.03.2023

Bacho Devi & Others

Vs.

...Appellant(s)

Baljit Singh & Another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Vikas Lochab, Advocate for the appellants.

NIDHI GUPTA, J.

CM-3627-CII-2023

This is an application under Order 41 Rule 19 read with Section 151 CPC for restoration of the appeal which was dismissed vide order dated 06.02.2023 for want of prosecution.

For the reasons stated in the application, the same is allowed and appeal is restored to its original number.

CM-9634-CII-2019

This is an application under Section 151 CPC seeking exemption from filing typed copy of Award dated 07.07.2014. After going through the contents of the application, the same is allowed subject to all just exceptions.

CM-9636-CII-2019

This is an application under Section 5 of the Limitation Act for condonation of delay of 1609 days in filing the appeal.

Learned counsel for the applicant/appellant seeks condonation of inordinate and extraordinary delay of 1609 days in filing the appeal on the ground that as per judgment in ***“N. Balakrishanan Vs. M. Krishnamurthi” 1999 (1) PLR 462*** it has been held that a sufficient cause should receive a liberal construction.

Reason cited in present Application is that the applicant-appellant did not have knowledge of limitation for filing the appeal and therefore, delay of 1609 days has been occasioned. Further, in Para 4 it has been mentioned that due to above said reasons, delay of 1855 days in filing present appeal is neither intentional nor deliberate. However, in the prayer clause it is prayed that delay of 1609 days in filing the present appeal may be condoned.

I find sufficient cause is not made out to condone such inordinate and extraordinary delay of 1609 days. Application accordingly, stands dismissed.

MAIN CASE

Present appeal has been filed by the claimants against dismissal of their claim petition by Motor Accident Claims Tribunal, Sonapat (hereinafter referred to as “the learned Tribunal”) vide Award dated 07.07.2014 passed in MACT Petition No.147 of 2011/2012 filed under

Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as “the Act”). Claimants are wife and four major children of deceased-Panchi Shah.

2. It is the pleaded case of the appellants that deceased-Panchi Shah had died due to injuries suffered by him in a motor vehicular accident that took place on 16.06.2011 due to rash and negligent driving of canter bearing registration No.HR-69A-4759 being driven and owned by respondent No.1 and insured by respondent No.2.

3. Learned counsel for the appellants inter alia submits;

a) that their claim petition has been dismissed only on the reason that claimants could not prove the accident in question;

b) that while passing the impugned Award, learned Tribunal has overlooked testimony of eyewitness PW1-Arun Parshad.

4. No other argument is made on behalf of the appellants.

5. I have heard learned counsel for the appellants.

6. Perusal of record of the case shows that PW1-Arun Parshad in his examination-in-chief has stated that accident in question was caused due to rash and negligent driving of above said canter. However, in his cross-examination, the said eyewitness has stated that neither he saw the driver, nor the vehicle in question, and he was actually not eyewitness. PW1 has further, admitted that he was disclosed number of the said canter by relatives of the appellants.

7. Learned counsel for the appellants is unable to controvert this factual position.

8. Accordingly, I find no merit in the present appeal and the same is hereby, **dismissed**.

9. Pending application(s) if any also stand(s) disposed of.

02.03.2023

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No