

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

CR No. 2529 of 2023 (O&M)

Date of decision: 27.04.2023

Krishna and others

...Petitioners

Versus

Kuldeep and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Divyam Singh, Advocate
for the petitioners.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this revision petition is for setting aside the order dated 13.04.2023, vide which, an application filed by the petitioners, under Section 149 read with Section 151 of the CPC seeking permission to pay the ad-valorem court fee by way of extending the period, was dismissed.

Brief facts of the case are that on account of death of Ramesh Singh, husband of petitioner No. 1 Krishna, due to electrocution, the petitioners filed a suit for compensation under the Fatal Accident Act. Along with the suit, an application under Order 33 CPC was also filed seeking permission to sue as an indigent person and it was submitted that the petitioners were having no independent source of income. The permission was initially granted and vide judgment and decree dated 02.12.2017 (Annexure P-3), the suit of the petitioners/plaintiffs was partly allowed and respondent-UHBVNL was directed to pay a compensation of Rs. 3,48,000/- along with 9% interest, however, later on, the judgment and decree was corrected and the compensation to the tune of Rs. 6,96,000/- was granted.

The petitioners, thereafter, preferred an appeal before the lower appellate Court for enhancement of the compensation along with an application for granting permission to file the appeal as indigent person. The lower appellate Court, while allowing the appeal as per judgment and decree dated 17.09.2019, enhanced the compensation to the tune of Rs. 10,87,900/- along with interest @ 9% per annum from the date of filing the suit till its realization, however, the lower appellate Court held that since the trial Court has awarded an amount of Rs. 6,96,000/- as compensation, therefore, the petitioners are liable to pay the ad-valorem court fee.

Thereafter, the petitioners, on coming to know about the said decree, could not deposit the court fee in time due to the reasons explained in the petitions and thereafter, due to outbreak of COVID-19, the Courts were not fully working.

It is submitted that thereafter, the petitioners have filed an application under Section 149 read with Section 151 CPC on 15.07.2022 for extending the period to deposit the court fee by giving explanation about their poor financial condition.

It is worth mentioning that since the aforesaid application was not decided, the petitioners filed a petition bearing CR-973-2023 before this Court, which was disposed of on 13.02.2023 directing the lower appellate Court to decide the application expeditiously.

Learned counsel for the petitioners submits that vide impugned order dated 13.04.2023, the Additional District Judge, Panipat has dismissed the said application only on the ground of limitation holding that the same has been filed at a belated stage.

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Learned counsel further submits that the reasons given in the application (Annexure P-7) are self explanatory that petitioner No. 1 is a widow and she has recently solemnized the marriage of her daughter by selling her sole residential house and thereafter, they are residing in a rented room. It is also explained that thereafter, the family of the petitioner shifted to a village as they were unable to pay the rent and due to this reason, they could not contact their counsel. In the meantime, due to outbreak of COVID-19, the petitioners remained under impression that the Courts are not working, however, on coming to know about the judgment and decree passed by the lower appellate Court, they immediately moved an application for extension of time.

Learned counsel for the petitioners further submits that the petitioners are daily wage labourers working in the agricultural fields and have meagre income, however, they are ready to deposit the stamp duty, so as to take the benefits of the decree enhancing the compensation.

Learned counsel for the petitioners further submits that in case the time is not extended, virtually the decree passed by the lower appellate Court, in favour of the petitioners, will become infructuous and no purpose would be served in that eventuality.

Learned counsel for the petitioners next argues that respondent-UHBVNL has not filed any appeal against the judgment and decree passed by the lower appellate Court enhancing the compensation.

After hearing learned counsel for the petitioners, considering the aforesaid facts and circumstances and also in view of the fact that the respondent-UHBVNL has neither filed any appeal against the judgment and

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decree passed by the trial Court dated 02.12.2017 nor against the judgment and decree dated 17.09.2019 passed by the lower appellate Court, vide which, the complainant was enhanced, this Court finds that issuance of notice of motion to the respondents at this stage can be waived off as the dispute, regarding extension of time for payment of court fee, is between the decree holder and the Court.

Accordingly, the present petition is allowed. The impugned order is set aside.

The petitioners are granted two months more time from today to deposit the court fee in terms of decree passed by the lower appellate Court.

27.04.2023
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes