

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-810-2024 (O&M)
Date of Decision: 27.02.2024

ORIENTAL INSURANCE CO LTD APPELLANT
VS
HARSH NANDWANI AND OTHERS RESPONDENTS

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Harsh Aggarwal, Advocate for the appellant.

GURBIR SINGH, J. (ORAL)

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CM-3059-CII-2024

This application is filed under Section 5 of Limitation Act for condonation of delay of 61 days in filing the appeal.

In view of the grounds taken in the application, delay of 61 days in filing the appeal is condoned.

Civil Miscellaneous Application is allowed.

Main case:

1. This appeal is filed against the award dated 26.07.2023 passed by learned Tribunal whereby a compensation of Rs.7,39,680/- apart from Rs.4,44,000/- vide award dated 14.05.2003 for injuries suffered by the respondent No.1/claimant.
2. Learned counsel for the appellant *inter alia* submits that learned Tribunal has wrongly taken the income of the claimant as Rs.40,000/- per month on the basis income tax returns for the years 1998 to 2001. He has

referred to para No.17 of the judgment. He further submits that the appellant-Insurance Company would be satisfied if the liberty is granted to it to move an application before the Tribunal for correction of the error apparent on record.

3. I have heard submissions of the learned counsel for the appellant.
4. The appellant has placed on the file the copy of the income tax return of the claimant for the assessment year 1999-2000 where total income of the claimant is mentioned as income from business as Rs. 40,000/- and income from rent as Rs. 9600/-. The said income is annual income and not monthly income. But, learned Tribunal at the time of passing of award has considered the income of the claimant as Rs. 40,000/- per month. Since the mistake is apparent and if notice to this appeal is given to claimant/respondent No.1, it may further delay the disposal of the case causing lot of hardship to claimant/respondent No.1, who met with an accident in June 2000 and is striving to get compensation on account of receipt of injuries suffered in the motor vehicular accident. So notice to claimant is dispensed with.
5. This appeal is disposed of with liberty to the appellant to move an application within 30 days before the Tribunal for correction of the award by taking into consideration the income of the claimant/respondent No.1-injured as per evidence available on record and to make calculation afresh. In case, such application is moved, the learned Tribunal shall proceed after giving notice to the claimant.

27.02.2024
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(GURBIR SINGH)
JUDGE

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