



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

252

**FAO-3191-2018 (O&M)
Date of decision : 28.08.2025**

Pinki and others

..... Appellants

versus

Surender Kumar and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sunil Chaudhary, Advocate
for the appellant (through V.C.).

Mr. Nigam K. Bhardwaj, Advocate
for the respondent-Insurance Company.

PANKAJ JAIN, J. (Oral)

CM-12022-CII-2018

This is an application filed under Section 5 of the Limitation Act seeking condonation of delay of 1043 days in filing the appeal.

From the pleadings raised in para 2 of the application, this Court finds that the applicant has made out a sufficient cause for condonation of delay.

Consequently, the present application is allowed. Delay of 1043 days in filing the appeal stands condoned.

Main case

1. Challenge is to the order dated 26.02.2015 passed by Commissioner under Employee's Compensation Act, Circle Bhiwani.
2. The claimants seek enhancement of compensation on account of death of deceased Narender, who is stated to have died in an



accident during and arising out of the course of employment at the age of 26 years.

3. The Commissioner while computing the compensation observed as under:-

“xx xx The applicants could not prove the same by bringing any cogent evidence. Therefore, monthly wages of the deceased as per the minimum rate of wages i.e. Rs.4,230 of the relevant time, is hereby considered as wages of the deceased but the same is limited to Rs.4000/-as per the limitation laid down by the Act and the same is considered for the purpose of calculation.

On the strength of these facts i.e. age 26 years and wages Rs.4000/- and taking into consideration the relevant factor at the age of 26 years of the deceased and taking 50% of admissible wages, the amount of compensation payable to the dependents of the deceased comes to Rs. 4,30,560/- (215.28 x 4000 x 50%) which is awarded in favour of the applicants.

The fact that vehicle truck bearing No.HR-19E-0301 owned by respondent No.1 was duly insured vide Policy exhibit RW-1 and the insurance company has duly received the insurance premium, thus, the liability to pay compensation is hereby fastened upon the respondents No.2.

The counsel for the applicants has also argued for interest and penalty. The amount of compensation was due to the applicants but the respondents have not cared about the payment of compensation even after filing of the present claim petition and the respondents have made default in paying compensation due under the Act. The respondent No.2 has due knowledge of the claim from the date of its filing. Therefore, the dependents of the deceased are also entitled for the simple interest at the rate of 12% per annum on the amount awarded above Rs.4,30,560/- only from the date of filing of the petition i.e. from 22-03-2010 to the date of this order i.e. 26-02-2015 which comes to Rs.2,54,748/-. Liability to pay interest is hereby fastened upon the insurance company i.e. upon respondent No.2. There is no order for any penalty.”



4. The aforesaid order needs to be modified to the following effect:-

Interest payable on the compensation @ 12% per annum in terms of Section 4-A of 1923 Act has to be granted for the period commencing from 30 days after the accident till the date of actual realization instead of the period for which the Commissioner awarded.

No order has been passed qua penalty. The claimants are also entitled for penalty which shall be Rs.2 lakhs and shall be recoverable from the employer and not from the insurer in view of ratio of law laid down in *Ved Prakash Garg vs. Prem Devi* reported as *1997 AIR (SC) 3854*.

6. With the aforesaid modification, the appeal is disposed off.

(PANKAJ JAIN)
JUDGE

28.08.2025
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No