



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

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**FAO-7050-2018 (O&M)
Date of decision : 25.02.2025**

Ajmeri Devi and others

..... Appellants

versus

Rajnish and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Amit Kohar, Advocate
for the appellants.

Mr. D.P. Gupta, Advocate
for respondent No.2-Insurance Company.

PANKAJ JAIN, J. (Oral)

1. Appeal filed at the behest of the claimants aggrieved of the order passed by Commissioner, Yamuna Nagar dated 07.10.2016 whereby allowing the compensation to the claimants owing to the death of Raj Kumar. They have been awarded Rs.4,28,523/- alongwith interest @ 12% for the period commencing from a month after the date of accident i.e. 03.04.2013 till actual realization. Alongwith the appeal, applications seeking condonation of delay of 454/29 days in filing/re-filing the appeal have been filed. The pleadings raised in the application seeking condonation of delay are to the following effect:-

“xx xx xx

7. That it is important to mention here that the name of the appellant no.1 was wrongly mentioned in the certified copy of the award dated 07.10.2016 passed by Ld. Commissioner, Yamuna Nagar. Her name was mentioned as Jasmero Devi whereas her



actual name is Ajmero Devi. Immediately he filed an application for correction in her name in the award dated 07.10.2016. The said application was allowed and her name was corrected vide order dated 16.5.2017.

8. That thereafter the appellants applied for certified copy of the award, which was prepared on 04.08.2017.

9. That the appellants belongs to a very poor family and the father of the appellants no. 1 to 4 and son of appellant no.5 had expired on 04.03.2013. The appellants are dependants upon the others for their livelihood.

10. That thereafter the appellants arranged money for filing the appeal. After arranging the money, the applicants came to Chandigarh in third week of February, 2018 i.e. on 21.02.2018 and engaged the undersigned counsel.

11. That on account of abovementioned facts and circumstances, the appeal was filed on 6.03.2018 by Mr. Amit Kohar, Advocate.”

2. Mr. Gupta, counsel for the respondent has seriously objected to the condonation of delay claiming that even if the limitation is taken to have commenced from the date of correction of name i.e. 16.05.2017, application seeking certified copy was submitted only on 04.08.2017 i.e. after the expiry of limitation to file appeal.

3. I have heard counsel for the parties and have carefully gone through the records of the case.

4. In the considered opinion of this Court, the limitation shall commence not from 07.10.2016, but from 16.05.2017 i.e. when the application filed by the applicant seeking correction in the name was



allowed. Calculating therefrom, the appeal would be barred by almost 07 months. Trite it is that the Employee's Compensation Act being a beneficiary legislation and there being no third party right involved, the Courts need to be liberal while dealing with the rights of families in destitute.

5. In view of above, this Court finds that the applicant has offered cogent explanation and sufficient reasons to condone the delay. Consequently, applications i.e. CM-25873-CII-2018 & CM-25874-CII-2018 seeking condonation of delay of 454/29 days in filing/re-filing the appeal are hereby condoned.

6. So far as compensation is concerned, counsel for the appellants has raised two fold submissions. He submits that age of the deceased was wrongly taken to be 52 years, whereas as per the post mortem report, he was found to be 40 years of age. The argument raised sans merit and deserves to be rejected. The Commissioner has rightly assessed the age of the deceased as per Ex.R-2 i.e. the driving licence of the deceased himself and has thus, rightly assessed his age to be 52 years. Counsel for the appellants further submits that the income of the deceased has been wrongly assessed at Rs.5862.15 per month. The income for quantification of compensation in terms of Section 4(1B) has to abide by the notification issued by Central Government under the said provision. The date of accident is 04.03.2013. Mr. Gupta admits that as per notification in vogue on that date, the monthly wages for the purpose of Section 4(1) were notified to be Rs.8,000/- per month by the Central Government by issuing notification under Section 4(1B). In view thereof, the compensation needs to be re-assessed. The same shall be



Rs.4,000/- x 146.20 = 5,84,800/-.

7. With the aforesaid modification in the impugned order, the appeal is disposed off.

8. Needless to say in terms of Section 4A, the claimants shall be entitled for interest @ 12% per annum for the period commencing from a month after the date of accident i.e. 03.04.2013 till the date of actual realization on the enhanced amount as well.

9. Ordered accordingly.

**(PANKAJ JAIN)
JUDGE**

25.02.2025

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No