

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

**CM-7666-CII-2012 in/and
FAO No.1829 of 2012 (O&M)
Date of Decision: July 02, 2015**

Shiv Kumar and others

.... Appellants

vs.

Bajaj Allianz General Insurance Company Limited and another

.... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. O.P. Goyal, Senior Advocate with
Mr. Aditya Yadav, Advocate for the appellants.

Mr. Nitin Mittal, Advocate for
Mr. Subhash Goyal, Advocate for respondent No.1.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

There is a delay of 678 days in filing the present appeal.

It is stated that the applicant-appellant did not know that the impugned Award dated 10.02.2010 was passed against him by the Motor Accident Claims Tribunal, Narnaul (in short 'the Tribunal'). It came to his notice when the appellant received the warrant in the execution petition. Therefore, the delay had occurred. An affidavit in support of the application making similar averments was also filed.

In the reply, respondent No.1-Insurance Company opposed the application.

I have heard learned counsel for the parties and have also carefully gone through the impugned Award.

A perusal of the impugned Award shows that the driver-appellant had been contesting the claim petition before the Tribunal. Written statement was filed and the petition was contested. Therefore, the plea that the applicant-appellant did not know about the Award is factually incorrect. In the Award, the liability was held to be joint and several and recovery rights were given to the Insurance Company.

Learned counsel for the applicant-appellant has argued that the applicant-appellant came to know about the factum of Award against him only when the Insurance Company had filed the execution petition.

The liability of the applicant-appellant was held when adverse findings were recorded against him in the impugned Award dated 10.02.2010.

In the additional affidavit, it is stated that the applicant-appellant had engaged Shri Mukesh Nirmal, Advocate and later on Ram Chander Chaudhary was engaged, who told him that the Insurance Company would pay the amount of compensation to the claimants. The applicants-appellants was not told that the recovery rights have been given to the Insurance Company.

Except the averments of the applicant-appellant, there is no affidavit of any other person to state that the applicant-appellant did not know the contents of the impugned Award.

The grounds mentioned in the application are incorrect. Hence, the application is dismissed. Consequently, the appeal also stands dismissed.

July 02, 2015
sarita

(KULDIP SINGH)
JUDGE