

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

FAO No.2360 of 2012 (O&M)

Date of Decision: 08.10.2015.

Reliance General Insurance Co. Ltd.Appellant.

VERSUS

Karambir and othersRespondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Ms. Kaavya Jariyal, Advocate for
Mr. T.K. Joshi, Advocate for the appellant.

Respondent No.1 exparte vide order dated 26.09.2012.

Respondent No.2 died.

None for respondent No.3.

SNEH PRASHAR, J.

CM-10495-CII-2012

This is an application filed under Section 5 of the Limitation Act seeking condonation of delay of 74 days in filing the appeal.

In view of the grounds mentioned in the application, delay of 74 days in filing the appeal is condoned and the application is accordingly disposed of.

FAO-2360-2012 (O&M)

This appeal was filed by the appellant-Insurance Company assailing the award dated 01.11.2011 passed by Motor Accident Claims Tribunal, Narnaul (for short, “the tribunal”) in MACT petition No.198 of 2010 titled as “Karambir vs. Madan Singh and others” awarding compensation to the tune of Rs.42,517/- to respondent No.1-claimant with interest at the rate of 6% per annum from the date of claim petition till realization, on account of injuries suffered by him in motor vehicular accident on 13.05.2009, fastening liability of payment of the award amount jointly and severally on the appellant-insurer and respondents No.2 and 3 (driver and owner) of Truck No.HR-58-5041 (hereinafter referred to as “the offending vehicle”).

The submissions made by Ms. Kavya Jariyal, learned counsel appearing for the appellant have been considered.

The contention of learned counsel for the appellant-insurance company is that as per version of the claimant himself, he was travelling in Truck bearing registration No.HR-55G-3153 when the accident took place. Yet, he filed the claim petition against respondents No.2 and 3 (driver and owner) of the offending vehicle.

Learned counsel contended that the claim petition was filed under Section 163-A of the Motor Vehicles Act, 1988 (for short, “the Act of 1988”) and as per provisions of the said Section, the owner and the authorized insurer of that vehicle can be held liable for payment of compensation for a permanent disablement or death in an accident, during

the use of which the accident takes place. The offending vehicle was not involved in the accident and, therefore, the appellant-insurer of that vehicle is not liable to pay compensation.

There is no merit in the arguments of learned counsel for the appellant-insurance company. The claim petition was filed invoking the provisions of Section 163-A of the Act of 1988. Section 163-A is a special provision for payment of compensation on structured formula basis. It postulates that notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle of the authorized insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation as indicated in the Second Schedule of the Act of 1988, to the legal heirs or the victim, as the case may be.

When the claimant-respondent No.1 had claimed compensation under Section 163-A of the Act of 1988, he was only required to prove that the accident, during which he suffered injuries, had taken place out of the use of the offending motor vehicle. In order to prove the same, the claimant-respondent No.1 himself appeared in the witness box and testified that the offending vehicle was coming from the front side. He tried his level best to avert the accident yet his Truck No.HR-55G-3153 lost balance, it struck with the offending vehicle. In a way, the occurrence of accident stands admitted by the appellant-insurance company. The learned tribunal has rightly held that the injuries in the accident were sustained by the claimant-

respondent No.1 on account of the offending vehicle, therefore, he is entitled to seek compensation.

Thus, the award passed by learned tribunal is very much in accordance with law and calls for no intervention. Accordingly, the appeal is dismissed.

(SNEH PRASHAR)
JUDGE

08.10.2015.
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