

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

FAO-343-2012 (O&M)
Date of decision: 05.02.2016

Pawan Kumar

..Appellant

Versus

The Oriental Insurance Company Ltd. and ors. ...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. D. K Singal, Advocate for the appellant.

Mr. R. K. Bashamboo, Advocate for respondent No.1.

Mr. J. P. Sharma, Advocate for respondent Nos.2 to 5.

Mr. B. K. Bagri, Advocate for LR's of respondent No.6.

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JITENDRA CHAUHAN, J.

CM-1748-CII of 2012

Despite availing sufficient opportunity, no reply has been filed to the delay application.

Heard.

For the reasons contained in the application, same is allowed and delay of 248 days in re-filing the appeal is condoned.

Main Case

This is owner's appeal directed against the impugned award dated 27.11.2010, passed by the learned Motor Accident

Claims Tribunal, Narnaul (for short, 'the Tribunal').

During the course of arguments, the learned counsel for the appellant states that the liability has wrongly been fastened upon the appellant by the learned Tribunal. In fact the issue stands finally settled by this Court in FAO Nos.589 to 591 of 2010, decided on 21.12.2011. He further informs that the said judgment, passed by this Court, was assailed by the Insurance Company before the Hon'ble Supreme Court. However, the SLP so preferred was dismissed.

The present accident also has occurred from the same accident, wherein the previous appeals, the insurance company has been burdened with the liability. However, on appraisal and appreciation of the same, it reveals that the findings recorded in the earlier appeals i.e.FAO Nos.589 to 591 of 2010, have attained finality before Hon'ble Supreme Court, therefore, on these facts different view cannot be taken.

Accordingly, the present appeal preferred by the owner is allowed, in terms of FAO Nos.589 to 591 of 2010.

05.02.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**