

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

FAO No.4359 of 2014 (O&M)
Date of decision: September 14, 2016

Reena ... Appellant

Versus

Davinder Kumar and another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Uday Chauhan, Advocate for
Mr. Vivek Suri, Advocate for the appellant.
Mr. Tejpal Singh Dhull, Advocate for respondent No.1.
Mr. Gaurav Gupta, Advocate for
Mr. G.D. Gupta, Advocate for respondent No.2.

Rajan Gupta, J.

CM-12455-CII-2014:

This is an application under Section 5 of the Limitation Act seeking condonation of 26 days delay in filing the appeal.

For the reasons mentioned in the application, same is allowed and delay in filing the appeal is condoned.

FAO-4359-2014:

Appellant/claimant has impugned the award dated 30.01.2014, passed by Motor Accident Claims Tribunal, Ambala, whereby claim petition filed by the appellant for grant of compensation has been dismissed.

Learned counsel for the appellant has argued that tribunal has erred by holding that in the claim petition, appellant cannot be treated

as third party as her husband is owner of motor cycle in question. He has submitted that the motorcycle, on which appellant was riding as a pillion rider, was comprehensively insured and as such, injuries ought to have been indemnified by the insurance company.

Learned counsel for respondent No.2-insurance company, on the other hand, has argued that the appellant filed the claim petition in connivance with her husband i.e. respondent No.1. He has submitted that the DDR was malafidely lodged with the police at belated stage. Thus, the tribunal has rightly dismissed the claim petition of the appellant.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

Accident is alleged to have occurred on 5.2.2010, wherein appellant suffered injuries. It is claimed that appellant was a pillion rider on a motorcycle being driven by her husband. Same was hit by a swift car bearing No.HR-01Y-9000. A claim petition under section 163-A of the Motor Vehicles Act was filed by the appellant against driver, owner and insurer of the said car. However, that claim petition was dismissed as withdrawn on 28.2.2012 with permission to file afresh after rectifying the defect. However, second claim petition was filed by the appellant under section 163-A of the Motor Vehicles Act only against her husband and insurer of the motorcycle, but driver, owner and insurer of the car were not impleaded therein. Admittedly, respondent No.1 i.e. husband of the appellant also filed another claim petition under section 166 of the Motor Vehicles Act against owner and insurer of the car. In my considered view, the claim petition filed by the appellant was not maintainable.

Apparently, there is no error or infirmity in the findings arrived at by the Tribunal. The appeal is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

September 14, 2016
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No