

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

(1) **FAO No.5405 of 2014 (O&M)**
Date of decision : 08.09.2016

A to Z Logistics Pvt. Ltd.

.....Appellant

Versus

Smt. Poonam Devi and others

...Respondents

(2) **FAO No.5409 of 2014 (O&M)**
Date of decision : 08.09.2016

A to Z Logistics Pvt. Ltd.

.....Appellant

Versus

Smt. Parmila and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Inderjit Sharma, Advocate for
appellants in both the appeals.

DARSHAN SINGH, J.

CM-15073-CII-2014 in
FAO No.5405 of 2014

There is delay of 03 days in filing the present appeal. The applicant-appellant has filed an application under Section 5 of the Limitation Act for condonation of delay.

Heard on the application.

In view of the reasons mentioned in the application, same is allowed and the delay of 03 days in filing the present appeal is hereby condoned.

CM-15077-CII-2014 in
FAO No.5409 of 2014

There is delay of 01 days in filing the present appeal. The applicant-appellant has filed an application under Section 5 of the Limitation Act for condonation of delay.

Heard on the application.

In view of the reasons mentioned in the application, same is allowed and the delay of 01 days in filing the present appeal is hereby condoned.

Main appeals

This judgment shall dispose of both the appeals mentioned above, which have arisen out of the same award dated 25.02.2014, passed by learned Motor Accidents Claims Tribunal, Narnaul (hereinafter called the “Tribunal”).

2. The present appeals have been filed by the owner of trollea bearing registration No.HR-37A-7590 to assail the recovery rights granted against it to respondent No.4 the Oriental Insurance Company Ltd., the insurer of the vehicle.

3. I have heard learned counsel for the appellant and have gone through the record carefully.

4. Learned counsel for the appellants contended that the learned Tribunal has wrongly held that respondent No.5 Anil Kumar, the

driver of the vehicle was having the valid driving licence on the date of accident. He contended that the learned Tribunal has wrongly mentioned that the driver was authorised to drive the transport vehicle with effect from 17.06.2011. He contended that in fact on that day the driving licence of respondent Anil Kumar, the driver was renewed. He further contended that the owner of the vehicle has also stepped into the witness box as RW-1 and has deposed that Anil Kumar was having the valid driving licence. The driving test was taken before appointing him as a driver. He is an expert driver. He has seen the driver driving the vehicle. Thus, he contended that there was no violation of the terms and conditions of the insurance policy on the part of the insured and recovery rights have been wrongly granted to the respondent-Insurance Company.

5. I have duly considered the aforesaid contentions.

6. RW-1 Sunil Jindal is the authorised person appointed by the appellant-Company to depose on its behalf. There is no material on the record to show that he was the person who has engaged Anil Kumar the driver of the vehicle. Moreover, he has nowhere stated that he has inspected or checked the driving licence of the driver at the time of his appointment. He has simply deposed about the drive test and competency of Anil Kumar to drive the vehicle. So, the statement made by RW-1 Sunil Jindal does not show that the appellant-Company has exercised reasonable care to ascertain that driver Anil Kumar was having the driving licence to drive the transport vehicle, at the time of his appointment.

7. Rx.R5 is the copy of the driving licence of respondent

Anil Kumar, the driver of the vehicle, which shows that said licence was originally issued on 19.03.2010 by the District Transport Officer, Mon, Nagaland. Ex.R6 is the verification report which further makes the position clear that the driving licence of Anil Kumar was issued on 19.03.2010. The same was valid upto 18.03.2013. There is a clear endorsement in the driving licence Ex.R5 that Anil Kumar was authorised to drive medium motor vehicle and heavy motor vehicle with effect from 17.06.2011, whereas the present accident has taken place on 04.05.2010. Respondent Anil Kumar was driving the heavy transport vehicle *i.e.* trolly bearing registration No.HR-37A-7590 but he had no driving licence to drive the HTV (heavy transport vehicle) on the date of the accident, which is a clear violation of the terms and conditions of the insurance policy and there is no illegality in the recovery rights given to the respondent-Insurance Company against the appellant by the learned Tribunal.

8. Consequently, the present appeals are without any merit and the same are hereby dismissed.

08.09.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No