

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

**FAO No.4930 of 2016 (O&M)
Date of Decision: August 27, 2016.**

Shri Ram General Insurance Company Ltd.

.....APPELLANT(s).

VERSUS

Mukesh and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Rajbir Singh, Advocate for
Mr. Sanjeev Goyal, Advocate
for the appellant (s).

SURINDER GUPTA, J.

CM-16884-16885-CII-2016

Heard. There is delay of 37 days in filing and 13 days in re-filing the appeal.

2. Learned counsel for the appellant submits that after receipt of certified copy of the award dated 07.01.2016 on 15.01.2016, the same was sent to Divisional Office, which forwarded the same to Regional Office. After approval to file appeal, demand draft of statutory amount was got prepared on 20.04.2016 and file was sent to him for filing on 14.05.2016, resulting in delay of 37 days in filing the appeal, which is neither intentional nor deliberate.

3. Regarding delay in re-filing of appeal, learned counsel for the appellant submits that after filing the appeal on 17.05.2016, registry raised some objections on 18.05.2016 and after removing the same, the appeal was again filed on 04.07.2016 but the registry again raised some objections on 17.08.2016, as such, the delay of 13 days in re-filing the appeal has

occurred, which is also neither intentional nor wilful.

4. In view of submissions of counsel for the appellant, supported by affidavits, both the applications are allowed and delay of 37 days in filing and 13 days in re-filing the appeal is, hereby, condoned.

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5. Heard.

6. Learned counsel for the appellant submits that admittedly driving licence of driver of the offending vehicle bearing registration No.HR-38L-0287, was fake. The Tribunal instead of exonerating insurance company for the breach of terms of the insurance company allowed rights to the insurance to recover the amount paid to the claimant from the insured.

7. The Tribunal has relied on the observations of Apex Court in case of *National Insurance Company Ltd Vs. Swaran Singh and others 2004 ACJ 1 (S.C.)* while discarding the above plea raised before it. The law as laid down by Apex Court in the above referred case has not been over-ruled or differed by any larger Bench than the Bench which gave the verdict in the aforesaid case, as such, no fault can be found with the observations made by the Tribunal while passing the impugned award.

8. No other argument has been raised.

9. This appeal has no merits.

Dismissed.

August 27, 2016.

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

√
Yes/No

Whether Reportable:

√
Yes/No