

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

119

FAO No.4976 of 2016 (O&M)
Date of Decision: August 29, 2016

United India Insurance Company Limited, Gurgaon

...Appellant

Versus

Smt. Maimuna and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Ms. Manjari Nehru Kaur, Advocate
with Mr. Abhinandan Pandhi, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.17013-CII of 2016

Prayer in this application is for condonation of delay of 103 days in filing the appeal.

The reason for the delay, as has been explained, is that the Gurgaon Branch had to seek the permission and sanction from the head office at Delhi and for the said process, the papers were sent. At various steps, some time has been consumed in the process of documentation and the communications which has resulted in the delay of 103 days in filing the appeal. The application is supported by the affidavit of Smt. Mamta Bansal, Deputy Manager, The United India Insurance Company Limited, Regional Office, Chandigarh.

In view of the above, the present application is allowed.

Delay of 103 days in filing the appeal stands condoned as reasonable explanation has been given for the delay in filing the appeal.

FAO No.4976 of 2016

Challenge in this appeal is to the award dated 09.02.2016

passed by the Commissioner under the Employee's Compensation Act, 1923, Mewat at Nuh, according to which an amount of ₹15,71,506/- has been assessed as the compensation amount.

2. The only argument which has been projected and pressed before this Court by learned counsel for the appellant is that the appellant is not liable for the penalty, as has been imposed upon the appellant under Section 4A(3)(b) of the Employee's Compensation Act, 1923 (hereinafter referred to as the Act). He contends that the primary responsibility was that of the claimants or employer-respondent No.5, who is the owner of the vehicle and insured to inform the appellant-Insurance Company about the incident and no information with regard to the accident having taken place been given to the appellant and, therefore, the liability could not have been imposed upon the appellant. He, thus, contends that the penalty as imposed upon the appellant cannot sustain and deserves to be set aside.

3. I have considered the submissions made by learned counsel for the appellant and with his assistance, have gone through the impugned award but do not find myself in agreement with his contention for the simple reason that the liability primarily has been foisted upon respondent No.5, the owner/employer of the deceased driver Sakir son of Kasam because the appellant has only been held liable to indemnify the penalty to the claimants and liberty has been granted to the appellant to recover the same from respondent No.5, the owner of the vehicle and insured. The said observation of the Commissioner is based upon the judgment of the Supreme Court in *Praveenbhai S. Khambhayata Versus United India Insurance Company Limited and others* 2015 ACJ 936 as also

the judgment of this Court in *United India Insurance Company Limited Versus Krishna* 2012 ACJ 2599 (P&H).

4. In view of the above, finding no merit in the present appeal, the same stands dismissed.

5. In the light of the dismissal of the appeal, the application for stay i.e. CM No.17014-CII of 2016, stands disposed of as infructuous.

August 29, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No