

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM No. 30472-CII of 2011 &
CM No. 26483-CII of 2012 in
FAO No. 7178 of 2011 (O&M)

Date of decision : 17.08.2016

Didar Singh

...Petitioner

V/s

United India Insurance Company Ltd. & ors.

...Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. KDS Hooda, Advocate for the applicant-appellant.

Ms. Vandana Malhotra, Advocate for respondent no. 1.

RAJAN GUPTA J.

CM No. 30472-CII of 2011

This is an application seeking condonation of 436 days delay in filing the appeal.

Learned counsel for the applicant-appellant submits that while dismissing the petition on 06.08.2012, application for condonation of delay has not been allowed. A review application was thereafter filed which was allowed by this court vide order dated 12.08.2016. He, thus, prays that before deciding the review application, instant application for condonation of delay needs to be allowed.

Learned counsel representing respondent no. 1 does not oppose the prayer.

In view of above and for the reasons stated in the application,

same is allowed. Delay of 436 days in filing the appeal is condoned.

CM No. 26483-CII of 2012

Allowed as prayed for.

FAO No. 7178 of 2011 (O&M)

An accident took place on 23.06.2008. Injured-claimants suffered two fractures on his right leg. He preferred a claim petition before the tribunal. It came to the conclusion that vehicle was being driven in a rash and negligent manner. Insurance company took the plea that vehicle was being plied without route permit. Tribunal accepted this plea and granted recovery rights to the insurance company. On appeal being filed before this court by the owner, this court found that no case for interference was made out. A review application was thereafter filed contending therein that vehicle had a valid route permit on the date of accident. Notice of the said application was issued. Insurance company thereafter verified the facts and came to the conclusion that route permit exhibit R-5 was in continuation of earlier route permit exhibit RX on record. Thus, on the date of accident, the vehicle had a valid route permit. In view of same, this court had recalled the order passed in appeal and listed it for hearing.

Learned counsel appearing for insurance company does not dispute the fact that tribunal vide zimini order dated 28.01.2010 had taken route permit exhibit RX on record. She also submits that inquiry was made in this regard and it has been found that vehicle had valid route permit on the date of accident.

Keeping in view facts and circumstances of the case, appeal preferred by the appellant-owner is hereby allowed. It appears that Exhibit

RX escaped the notice of the tribunal while deciding the matter. Appellant is absolved of the liability to indemnify the injured/claimants.

Appeal succeeds in these terms.

August 17, 2016

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No