

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

FAO No.1058 of 2007

Date of Decision.02.08.2017

Kailso Devi

.....Appellant

Vs

United India Insurance Company Ltd. and others

.....Respondents

Present: Mr. Sandeep Kotla, Advocate
for the appellant.

Mr. R.K. Bashamboo, Advocate
for respondent No.1.

Mr. Pardeep Goyal, Advocate
for respondent No.4.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appeal is accompanied by an application seeking
condonation of delay of 245 days on the following count:-

“2. That the appellant is a poor lady and cannot arrange money in time in order to file appeal against the impugned order dated 17.03.2006 passed by MACT, Jhajjar and after arranging money from the money lenders she contacted the counsel in the High Court on dated 15.02.2007 and the same is being filed today.”

The application is bereft of explanation of each day's delay neither any justifiable or reasonable explanation give, therefore, I am of the view that condonation of delay cannot be granted for the reasons aforementioned.

On merits, the appellant-claimant sought the compensation from the insurance company of truck bearing registration No.HR-38C-8347 on the premise that she being owner and truck bearing registration No. HR-

accident wherein driver and cleaner got compensation under Section 163-A of the Motor Vehicles Act from the insurance company of truck bearing registration No.HR-38C-8347 and therefore, the Tribunal ought to have granted compensation against the insurance company of the aforementioned truck as lot of damage has been caused to the truck owned by the appellant, thus, the award of the Tribunal is liable to be set aside.

Learned counsel appearing on behalf of respondent No.1- United India Insurance Company Ltd. submits that concededly FIR was registered against the truck bearing registration No.HR-46A-2404 i.e. the truck owned by the appellant. The appellant has failed to lead evidence with regard to the fact that driver of truck insured by the insurance company i.e. the truck bearing registration No. HR-46A-2404 was not rash and negligent. Even otherwise, the truck owned by the appellant was not insured and in case of comprehensive policy, after 2007 the insured is entitled to compensation to some extent, thus, urges this Court for dismissal of the appeal by upholding the finding rendered by the Tribunal.

I have heard learned counsel for the parties and appraised the paper book. Shorn of the facts above, the fact remains that the vehicle of the appellant was not insured. It is a clear-cut violation of the Motor Vehicle Rules and Section 3 and various other sections of the Motor Vehicles Act as no vehicle can ply without driving licence or any insurance certificate. The said person cannot be granted any indulgence for the purpose of entertaining the claim. Be that as it may, the fact remains that the FIR has been lodged against the deceased driver of truck owned by the appellant i.e. truck bearing registration No.HR-46A-2404. The appellant has failed to prove that the driver of the truck bearing registration No.HR-

46A-2404 was not rash and negligent in order to establish the claim qua damage to her truck. In the absence of the same, the Tribunal had no other option but to dismiss the claim petition claiming compensation of ₹5 lacs. I am of the view that in the absence of such evidence, the finding rendered by the Tribunal is perfectly legal and justified and does not call for interference.

The appeal is dismissed on account of delay as well as on merits.

(AMIT RAWAL)
JUDGE

August 02, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No

