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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5224 of 2013 (O&M)
Decided on: 31.08.2017

Karamvir **..........Appellant**

versus

Kiran Sharma and another **.......Respondents**

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Ram Kumar Saini, Advocate,
for the appellant.

Mr. Arun Sharma, Advocate
for respondent No. 2-Insurance Company

Rajbir Sehrawat, J.(Oral)

CM No. 22150-C of 2013

This is an application for condoning the delay of 25 days in re-filling the appeal.

For the reasons mentioned in the application, the same is allowed. The delay of 25 days in re-filling the appeal is condoned.

FAO No. 5224 of 2013 (O&M)

The instant appeal is filed by the driver-cum-owner challenging absolving the Insurance Company and grant of recovery rights to the Insurance Company. The Insurance Company was absolved from the liability of making the payment of compensation amount on the ground that the driving license was found to be fake.

The perusal of the case file shows that along with appeal, the appellant had also filed **C.M. No.22152-CII of 2013** for granting permission to place on record the driving license as an additional evidence and driving license was attached as Annexure A-1. While considering this application, this Court on 20.11.2013 had recorded the statement of the appellant that his driving license be got verified and if the driving license was found to be not genuine then his appeal would be liable to be dismissed with heavy cost. There upon taking note of the application and the driving license placed on record of the file; the court had issued notice of motion . The record further shows that thereafter, the Insurance Company had initiated the process of verification of this driving license which was attached as Annexure A1 with the application. However, the formal order for permission for leading the additional evidence and for placing on record the driving license was not passed by the Court.

Today, the notice of motion is issued in the application for additional evidence also. Learned counsel for the respondent-Insurance Company have no objection if that application is allowed and the driving license as Annexre A1 with the application is permitted to be led in evidence by way of additional evidence. Accordingly, the CM is allowed and the driving license attached with the application for leading additional evidence is taken on record in evidence of the case.

Further perusal of the file shows that learned counsel for the Insurance Company had taken time by making the statement before the Court that the verification report of the driving license had not been received. Therefore, adjournments was prayed for. Thereafter, several time the case was adjourned to await the verification report regarding the license in question.

Now the respondent-Insurance Company has filed an application i.e. **C.M. No. 2887-CII of 2016** for placing on record the verification report dated 14.07.2014; attached as Annexrue R-2/1 with the application. Notice of the C.M. is issued to the counsel for the appellant. He has no objection if this application is allowed. Accordingly, the application; for placing on record the verification report on behalf of the Insurance

Company; is allowed and the report is taken on record of the case.

In view of the above facts, since the driving license of the appellant has been found to be genuine even in the verification report placed on record by the Insurance Company, therefore, the liability of payment of the compensation has to be shifted to the Insurance Company instead of the appellant. Accordingly, the Award passed by the Motor Accident Claims Tribunal is modified to the extent that liability to make the payment of the amount of compensation in this case shall be upon respondent No. 2-Insurance Company.

The Award of the Motor Accident Claims Tribunal is modified to that extent only. The present appeal stands allowed.

Since the appellant has already deposited Rs. 25,000/- at the time of filing of the present appeal, therefore, he shall also be entitled to get back that amount of Rs. 25,000/- out of the money deposited by the Insurance Company.

31st August, 2017 **[RAJBIR SEHRAWAT]**
shabha **JUDGE**

Whether speaking/reasoned - Yes
Whether reportable - No