

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

-.-

FAO 9312 of 2014 (O&M)
Date of decision : 28.09.2017

Santosh and others

....Appellants

v

Prahlad and others

....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. Vikas Kumar, Advocate
for the applicant/appellants

Mr. Chandan Deep Singh, Advocate
for respondent No. 3

-.-

Rekha Mittal, J. (Oral)

CM 25865 CII of 2014

Prayer in this application is for condoning delay of 308 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Smt. Santosh, widow of the deceased and one of the applicants/appellants, the application is allowed and delay of 308 days in filing the appeal stands condoned subject to condition that in case the appellants are held entitled to get enhanced compensation, they shall not be entitled to interest for the period of delay.

CM 25866-CII of 2014 and FAO No. 9312 of 2014

Prayer in this application is for permitting the petition filed under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter to be referred as 'the Act') to be converted into petition under Section 166 of the Act.

Counsel for the applicants/appellants has submitted that

no prejudice would be caused to the insurance company in case the necessary permission is granted. In support of his contentions, he has referred to judgments of this Court ***Harmesh Kumar alias Ramesh Kumar v Inderjit Singh and others*** (FAO 4522 of 2012, decided on 19.05.2014) and ***Sudesh Sharma and others v Prahalad Kumar Garg and another*** (FAO No. 2492 of 2002, decided on 24.07.2014)

Counsel representing the insurance company would submit that in case the applicants are permitted to convert the petition from Section 163-A to Section 166 of the Act, the matter needs to be remitted to the Tribunal for adjudication afresh.

In view of the above, the application filed by the appellants for conversion of the petition filed under Section 163-A of the Act to that of Section 166 of the Act is allowed but the matter is remitted to the Tribunal for adjudication afresh after providing an opportunity of being heard to the respondents before the Court below.

For the foregoing reasons, the appeal stands disposed of with the aforesaid observations.

The parties through their counsel are directed to appear before the Tribunal on 13.10.2017. The Tribunal shall issue fresh notice to respondents No. 1 and 2 (Driver and owner of the alleged offending vehicle) and thereafter proceed with the matter in accordance with law.

(Rekha Mittal)
Judge

28.09.2017
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