

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

--

FAO 3955 of 2017 (O&M)

Date of decision: 24.07.2017

Gurdeep Singh

..... Appellant

Versus

Prithvi Raj and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-. -

Present: Mr. P S Jammu, Advocate
for the appellant

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Rekha Mittal, J. (Oral)

CM 12917 CII of 2017

Prayer in this application is for condonation of delay of 03 days
in filing the appeal.

In view of averments made in the application and arguments
advanced by counsel for the applicant, the application is allowed and delay
of 03 days in filing the appeal stands condoned.

Main case

The present appeal directs challenge against an award dated
23.01.2017 passed by the Motor Accident Claims Tribunal, Sirsa (here-in-
after to be referred as 'the Tribunal').

The sole grievance of the appellant (registered owner of Tractor
No. HR 25-D-8016) is that the insurance company (respondent No. 5) has
been given recovery rights against the appellant.

Counsel for the appellant would urge that as the vehicle in
question stands duly insured with respondent No. 5, the insurer is obligated
under law to indemnify the insured without any right of recovery.

I have heard counsel for the appellant and perused the paper

book particularly findings of the Tribunal whereby it has been held that the insurance company is not liable to indemnify the insured, however, in view of law laid down by Hon'ble the Supreme Court of India '*The New India Insurance Company vs. Darshana Devi and others*' **2008(2) RCR (Civil) 86**, the insurance company is directed to satisfy the award and then to realize the paid amount from owner of the tractor by filing an application before the Tribunal.

Counsel for the appellant has not disputed that Salochna (since deceased) was travelling on mudguard of the offending vehicle and the insurance policy does not cover the liability to pay compensation to any traveller on the tractor and only driver of the tractor was insured. In view of the above, I do not find any error much less illegality in the findings recorded by the Tribunal warranting intervention.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

24.07.2017

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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No