

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5445 of 2017(O&M)

Date of Order: 21.08.2017

The Oriental Insurance Company Ltd.

..Appellant

Versus

Kulwinder Kaur and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Satpal Dhamija, Advocate,
for the appellant.

ANIL KSHETARPAL, J(Oral)

C.M.No.17349-CII of 2017

Prayer in this application is for condonation of delay of 57 days
in filing the appeal.

For the reasons mentioned in the application, which is
supported by an affidavit, the delay of 57 days in filing the appeal is
condoned.

Application is allowed.

FAO No.5445 of 2017

Insurance Company is in appeal against the award passed by
the Motor Accident Claims Tribunal, Gurdaspur (hereinafter referred to as
'the Tribunal), assessing compensation payable @ Rs.2 lacs on account of
death of Mangal Singh.

Learned counsel for the appellant has submitted that in the FIR,
vehicle number was given as PB-02-TC-567 (Bolero make), whereas later
on the story was changed and vehicle number, which was involved in the

accident was given as PB-02BU-7401. Even the make of the vehicle was changed from Bolero vehicle to pick up vehicle of Ashoka Leyland. He has further submitted that the temporary registration was valid only upto 19.12.2014, whereas the accident took place on 25.12.2014, therefore, the vehicle was not having valid registration on the day of accident.

The learned Tribunal, has discussed the first issue raised by the counsel for the appellant in paragraphs 11 and 12 of the judgment, which are extracted as under:-

“11. The claimants have proved the copy of FIR as Ex.C1 and from perusal of FIR, I find that the same was got registered by one Manjit Singh son of Jagjit Singh who got recorded that on 25.12.2014 he along with his cousin brother Tapinder Singh were going on Maruti Car No.JK-02-B-B-5611 to Jammu from Amritsar and when they reached on the Bye pass Dhariwal, then at about 12.30 AM, a truck no.PB-30-H-9113 was going ahead of their car without any light or indicator. Due to fog, their car struck behind the said truck. Tapinder Singh was sitting on the front seat with driver. The driver of our car and Tapinder Singh both died at the spot due to said accident. He was sitting on rear seat and received grievous injuries. In the meantime, due to fog and dark a Bolero vehicle no.PB-02-TC-567 also struck on the backside of said truck and the driver

of said Bolero vehicle also died at the spot.

- 12. The claimants have alleged that said vehicle no.PB-02-TC-567 was not Bolero make nor its registration number was PB-02-TC-567. In fact, at the time of registration of case it was inadvertently got recorded by the complainant. In fact the vehicle which was being driven by Mangal Singh son of Sukhjinder Singh was having Temporary registration no.PB-02-BU-7401 and it was four wheeler Pick-up Ashok Ley Land and its allotment number was PB-02-TC-567. Learned counsel for the claimants contended that after registration of the case a supplementary statement of Lakhbir Singh and other witnesses were recorded by the Investigating Officer vide which the correct make and registration number were mentioned. In this regard, DDR No.17 dated 16.01.2015 was also lodged. He pointed out that claimants have proved the documents Ex.C21 to Ex.C24 to prove that the vehicle which was being driven by Mangal Singh son of Sukhjinder Singh was four wheeler Pick-up Ashok Ley Land and its Temporary registration number was PB-02-BU-7401 and it was not Bolero vehicle. Learned counsel for Insurance Company has contended that it is not proved on the file that vehicle No.PB-*

02-BU-7401 met with accident or it was being driven by Mangal Singh deceased. So, the present claim petition is not maintainable.”

The learned Tribunal has noted that the FIR was got registered at the behest of one Tapinder Singh, who was occupant of the other vehicle involved in the accident. It was 00:30 AM in the night. There was heavy and dense fog. The police, thereafter, recorded a supplementary statement i.e., DDR No.17, dated 16.1.2015.

Learned Tribunal further noticed that claimants produced a report of Krishan Gopal, Mechanic. The claimants further produced on the file the application for release of vehicle on superdari along with the report of police and the surety bond given by the claimants for releasing of the vehicle. On the basis of overwhelming evidence, the Tribunal has concluded that in the FIR, initially a wrong vehicle number was given, which has been corrected by the authorities and, therefore, there is no doubt that it is vehicle no.PB-02-BU-T-7401, which was involved in the accident .

In view of the discussion made above, no error is found in the finding of the Motor Accident Claims Tribunal.

Learned counsel for the appellant has further submitted that the vehicle was having only temporary registration, which expired on 19.12.2014.

I have seen the order passed by the learned Tribunal. No such plea has been taken by the Insurance Company before the Tribunal. In view thereof, this plea cannot be examine by the Court for the first time.

In view of the discussion made above, I do not find any ground to interfere with the order passed by the learned Tribunal. The appeal filed

by the Insurance Company is ordered to be dismissed.

August 21, 2017
nt

(ANIL KSHETARPAL)
JUDGE

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