

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

FAO No.3737 of 2015(O&M)

Date of decision: 5.4.2018

Ram Kumar

.....Appellant

VERSUS

Jasbir Kaur and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Ms. Rajni Maurya, Advocate for
Mr. Naveen Batra, Advocate for the appellant.

Mr. Salinder Kumar, Advocate for
Mr. Harsh Chopra, Advocate for respondent No.1.

Mr. Nikunj Dhawan, Advocate for
Mr. Harsh Aggarwal, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

CM No.11164-CII of 2015

Prayer in this application is for condoning delay of 526 days
in filing the appeal.

Heard.

In view of averments made in the application supported by an
affidavit of Ram Kumar- appellant, the application is allowed. Delay of
526 days in filing the appeal stands condoned.

Disposed of accordingly.

FAO No.3737 of 2015

Ram Kumar, the registered owner of offending vehicle i.e.
Mahindra Max bearing No.HP19-B-0466 has filed the instant appeal to
assail findings of the Tribunal on issue No.4 whereby the insurance
company has been given recovery right against the insured (appellant

herein) primarily on the ground that the vehicle in question was of Himachal Pradesh but the same was being plied within jurisdiction of Ropar District without any permit to ply the same in Punjab. As per the settled position in law, non-possession of a route permit or deviation from route does not constitute a defence in favour of the insurer under Section 149(2) of the Motor Vehicles Act, 1988 (in short 'the Act'). That being so insured can neither be held guilty of committing breach of terms and conditions of policy nor the same can be construed as a valid defence in favour of the insurer either to escape its liability to pay compensation or press for recovery right against the insured. In this view of the matter, findings recorded by the Tribunal on issue No.4 giving recovery right in favour of the insurer against the insured cannot be allowed to sustain and accordingly set aside.

No other point has been raised.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms. Resultantly, the insurance company shall be jointly and severally liable to pay compensation without any right of recovery.

APRIL 5, 2018

'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no