

**Sr. No. 224**

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

**FAO No.4300 of 2015 (O&M)**

**Date of Decision: 16.08.2018**

Jagtar Singh

... Appellant

Versus

Mohan Lal and another

... Respondents

**CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA**

Present:- Mr. Balbir Singh Saini, Advocate,  
for the appellant.

Mr. Rajbir Singh, Advocate,  
for respondent No.2-Insurance Company.

**TEJINDER SINGH DHINDSA, J.(ORAL)**

**CM No.13748-CII of 2015**

Instant application has been filed under Section 5 of the Limitation Act seeking condonation of delay of 428 days in filing the accompanying appeal.

Notice was issued in the instant application on 21.07.2015.

Contesting respondent No.2-Insurance Company was duly served. On a subsequent date of hearing i.e. 29.10.2015 further opportunity of 04 weeks was granted for filing reply, if any, to the application.

Concededly, no reply has been filed till date opposing the prayer made in the application.

In view of the averments made in the application and

submissions advanced by counsel, I find that sufficient cause has been shown to condone the delay that has occurred.

Prayer is allowed.

Delay condoned.

Application disposed of.

**Main Appeal**

Instant appeal has been filed by the owner-cum-driver of the offending vehicle assailing the award dated 12.02.2014 passed by the Motor Accident Claims Tribunal to the limited extent whereby recovery rights have been granted to the Insurance Company qua him with regard to the awarded compensation.

Counsel for the parties have been heard.

The uncontroverted factual premise is that in the impugned award, recovery rights had been granted in favour of the Insurance Company on the ground that permit (Ex.R-3) that had been placed reliance upon in the proceedings before the Tribunal was dated 24.02.2012 whereas accident had taken place on a date prior thereto i.e. 04.06.2011.

Appellant along with instant appeal has appended and placed reliance upon copy of permit dated 24.02.2011 (Annexure A-1) to contend that by virtue of such document/permit, the vehicle in question had due authorization to ply.

Counsel further contended that the permit dated 24.02.2012 (Annexure R-3) had been wrongly placed on record.

On the last date of hearing i.e. 04.07.2018, learned counsel representing respondent No.2-Insurance Company sought

time to file an affidavit regarding authenticity of the permit placed on record and appended as Annexure A-1 along with the instant appeal.

During the course of resumed hearing today, Mr. Rajbir Singh, learned counsel representing the Insurance Company has filed a reply by way of affidavit of Aditya Sharma, Legal Manager, ICICI Lombard General Insurance Company Limited, dated 30.07.2018 and the same is taken on record. Copy has been furnished to counsel opposite.

Perusal of the affidavit filed in Court today reveals that the Insurance Company has verified the contents of the permit at Annexure A-1 and has been found that the same is valid and genuine. Also appended along with affidavit is a copy of the information available on the website of the Ministry of Road Transport and Highways pertaining to the permit of the offending vehicle bearing registration No.MP-09-KD-9982.

It would be apposite to take note that the permit dated 24.02.2011 at Annexure A-1 was placed on record in terms of filing a miscellaneous application under Section 151 CPC and not under Order 41 Rule 27 CPC towards leading additional evidence.

Be that as it may, copy of the permit dated 24.02.2011 stands duly verified at the hands of the Insurance Company and has been found to be valid and genuine.

In view thereof, the appeal filed by the appellant is allowed and the impugned award dated 12.02.2014 passed by the Motor Accident Claims Tribunal, Hisar is modified and recovery

rights granted in favour of respondent No.2-Insurance Company  
are denied.

Appeal is allowed in the aforesaid terms.

**16.08.2018**

vandana

**(TEJINDER SINGH DHINDSA)**  
**JUDGE**

Whether speaking/reasoned  
Whether Reportable

Yes  
No