

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

-.-

Date of decision: 20.04.2018

FAO 4998 of 2016 (O&M)

Robin

..... Appellant

Versus

Leelawati and others

.....Respondents

FAO 4999 of 2016 (O&M)

Robin

..... Appellant

Versus

Shyamwati and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Munfaid Khan, Advocate
for the appellant

-.-

Rekha Mittal, J. (Oral)

CM 17184 CII of 2016 in FAO 4998 of 2016

Prayer in this application is for condonation of delay of 28 days
in filing the appeal.

In view of averments made in the application supported by an
affidavit of the applicant and arguments advanced, the application is
allowed and delay of 28 days in filing the appeal stands condoned.

CM 17190 CII of 2016 in FAO 4999 of 2016

Prayer in this application is for condonation of delay of 21 days
in filing the appeal.

In view of averments made in the application supported by an

affidavit of the applicant and arguments advanced, the application is allowed and delay of 21 days in filing the appeal stands condoned.

Main case

This order will dispose of aforesaid appeals as these have emerged out of the same award dated 22.03.2016 passed by the Motor Accidents Claims Tribunal, Palwal (hereinafter to be referred as 'the Tribunal') whereby compensation has been awarded in regard to injuries sustained by Leelawati and death of Udaibir, her husband in a motor vehicular accident that took place on 13.02.2011.

Robin son of Shri Rambir, the appellant is stated to be driver of offending motorcycle bearing No. HR 29-T/3088, owned by Parmod Kumar son of Shri Durga Singh. The sole submission made by counsel is that as Robin was minor on the date of accident i.e. 13.02.2011 and was not sued through his guardian, therefore, could not effectively defend his cause before the Tribunal, award passed by the Tribunal fastening liability to pay compensation cannot be allowed to sustain and liable to be set aside.

I have heard counsel for the appellant and perused the paper books particularly the award.

The Tribunal in para 24 of the award has dealt with this plea by holding to the following effect:-

“So far as the plea of the respondent No. 1 that he was minor at the time of accident is concerned, it is relevant to mention here that firstly, the respondent No. 1 had not taken this plea in his written statement and secondly, the school certificate Ex.R1 which is a photocopy of the mark sheet of secondary examination showing his date of birth as

05.09.1995, has not been proved in accordance with law and therefore, no reliance can be placed upon the same.”

Counsel for the appellant has not disputed factual findings recorded by the Tribunal that no such plea was raised in the written statement that the appellant was minor either at the time of accident or at the time of institution of petition by the claimant(s). On a pointed query by this Court, Counsel has fairly informed that the appellant filed the written statement, verified the same and even filed his affidavit in support thereof. As the appellant never raised a plea that he was minor at the time of institution of petition nor could substantiate that plea before the Tribunal, contention raised by the appellant seeking setting aside of the award on this score is not meritorious and liable to be rejected.

No other point has been raised.

For the foregoing reasons, appeals fail and are accordingly dismissed in limine.

No order as to costs.

(Rekha Mittal)
Judge

20.04.2018
mohan bimbira

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