

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

FAO No. 2521 of 2019(O&M)

Date of decision: 3.7.2019

International Presidency Senior Secondary School, Dadri through its
Secretary Dharmender Yadav

.....Appellant

VERSUS

Kanta and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. S.K. Yadav, Advocate for the appellant.

REKHA MITTAL, J.(Oral)

CM No.8209-CII of 2019

Prayer in this application is for condoning delay of 8 days in
re-filing the appeal.

Heard.

In view of averments made in the application, the same is
allowed. Delay of 8 days in re-filing the appeal stands condoned.

Disposed of accordingly.

FAO No.2521 of 2019

The present appeal directs challenge against award dated
04.03.2015 passed by the Motor Accidents Claims Tribunal, Narnaul (in
short 'the Tribunal') whereby compensation has been assessed on account
of death of Sidharth in a motor vehicular accident that took place on
18.07.2013.

The appeal has been preferred by International Presidency Senior Secondary School, Mahendergarh to assail recovery right given in favour of the insurance company in view of findings recorded in para 28 of the award, for want of permit to use the offending bus for carrying/transporting school children.

Apart from the fact that there is huge delay of 1272 days in filing the appeal, the appeal is devoid of merit and deserves to be dismissed.

Indisputably, the vehicle in question is a bus plied by a school for transporting children studying there. Counsel for the appellant did not dispute that there was no permit issued by the competent authority authorizing the offending vehicle to be plied on a public road/public place in compliance with the provisions of Section 66 of the Motor Vehicles Act, 1988 (in short 'the Act'). As the vehicle was being plied without a permit, the insurance company has rightly been allowed recovery right in view of the provisions of Section 149(2) of the Act.

To be fair to the appellant, counsel has placed on record instructions dated 11.12.2014 issued by the Government of Haryana in compliance with order dated 21.11.2014 passed by this Court in CWP No.5907 of 2009 'Court on its own motion Vs. State of Punjab and others'. Counsel for the appellant has submitted that these instructions were issued subsequent to the occurrence in question, therefore, not attracted in the present case. It may be true that the instructions issued subsequent in point of time to the occurrence may not be applicable unless they are made applicable retrospectively but at the same time, in view of provisions of the Act, existence or non-existence of instructions on the issue in question is of

no consequence. In this view of the matter, contention raised by counsel for the appellant is not meritorious.

Counsel for the appellant has made a vain attempt to argue that interest has been allowed at the rate of 9% per annum. Counsel for the appellant has not placed on record any document with regard to the prevalent bank rate at the time of occurrence or at the time of passing of the award. That being so, rate of interest allowed by the Tribunal cannot be faulted with.

In view of what has been discussed hereinabove, finding no merit, the appeal fails and is accordingly dismissed in limine.

JULY 3, 2019		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no