IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-.-

FAO 1796 of 2016 (O&M)
Date of decision: 29.04.2019

National Insurance Company Limited ....*Appellant*

Versus

Indrawati and others ....*Respondent*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Ravinder Arora, Advocate
for the insurance company
Mr. Sameer S Tiwari, Advocate
for the claimant

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Rekha Mittal, J. (Oral)

CM 6880 CII of 2016

Prayer in this application is for condoning delay of 23 days in re-filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit and arguments advanced, the application is allowed and delay of 23 days in refiling the appeal stands condoned.

Main case

The present appeal directs challenge against award dated 17.07.2015 passed by the Motor Accidents Claims Tribunal, Jhajjar (hereinafter to be referred as 'the Tribunal') whereby compensation has been assessed on account of death of Virender son of the claimant (respondent No. 1) in a motor vehicular accident that took place on 19.01.2007.

The sole submission made by counsel for the appellant-insurance company is that driver of offending vehicle was not holding a valid licence, therefore, the insurance company is entitle to have right of recovery against the insured after payment of compensation to the claimant. It is further submitted that the insurance company has filed an application under Order 41 Rule 27 read with Section 151 of the Code of Civil Procedure for placing on record verification report (Annexure A/1) wherein name of the driver is mentioned as Jagmind in place of Jagmender.

Apart from the fact that there is delay of 99 days in filing the appeal, the appeal is devoid of merit and deserves to be rejected.

Perusal of the application filed for additional evidence would reveal that the insurance company has sought permission to place on record verification report (Annexure A/1) and the said report is not per se admissible in evidence. The insurance company is under an obligation to examine a witness of the concerned Licensing Authority to prove the aforesaid report. Apart from this, in the verification report, name of licence holder is mentioned as Jagmender and not Jagmind, as has been sought to be read by counsel for the insurance company. Analyzed from any angle, there is no merit in contention of the insurance company that driver of offending vehicle was not holding a valid or effective licence or the insured is guilty of breaching terms and conditions of the insurance policy.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed.

(Rekha Mittal)
Judge

29.04.2019
Mohan Bimbra

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