

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

FAO No. 2356 of 2016(O&M)

Date of decision: 20.8.2019

M/s Sukhmani Mega Structures Pvt. Ltd.Appellant

VERSUS

New India Assurance Co. Ltd. and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ankur Gupta, Advocate for the appellant.

Ms. Kamaldeep Kaur, Advocate for
Mr. Ajay Singla, Advocate for respondent No.1.

Mr. Chandandeep Singh, Advocate for respondent No.2.

Mr. A.P. Kaushal, Advocate for respondent No.3.

REKHA MITTAL, J.(Oral)

CM No.8532 -CII of 2016

Prayer in this application is for condoning delay of 179 days
in filing the appeal.

Heard.

In view of averments made in the application supported by an
affidavit of Sh. J.S. Narang, Director of the appellant Company, the
application is allowed. Delay of 179 days in filing the appeal stands
condoned.

Disposed of accordingly.

FAO No.2356 of 2016

Challenge in the present appeal has been directed against
award dated 03.07.2015 passed by the Motor Accidents Claims Tribunal,

Ludhiana (in short 'the Tribunal') to the limited extent of giving recovery right in favour of the insurance company against driver and owner of the offending vehicle as licence of Moni Mohammad, driver of offending vehicle, was held to be fake, on the basis of report marked as Ex.R2.

Counsel for the appellant would argue that the insurance company did not examine a witness along with relevant record from the office of District Transport Officer, Rupnagar in order to prove that licence Ex.R3 was not issued by the said authority, therefore, findings of the Tribunal on the question of driving licence are unsustainable.

Counsel representing the insurance company, on the contrary, has supported findings of the Tribunal on issue No.3. She has prayed that in case report Ex.R2 is not taken into consideration for want of examination of a witness from the concerned Licensing Authority, the matter may be remitted to the Tribunal for deciding issue No.3 afresh with an opportunity to the insurance company to examine a witness of the concerned Licensing Authority along with relevant records to establish plea of the insurance company.

Counsel for the appellant, in reply, has got no objection if the matter is remitted to the Tribunal for decision of issue No.3 afresh, in view of prayer made by counsel for the insurance company.

Perusal of findings of the Tribunal in paras 18 and 19 of the award makes it evident that the Tribunal has relied upon report Ex.R2 but the insurance company did not examine a witness from the office of District Transport Officer, Rupnagar along with records, thus, opportunity was denied to the appellant to cross examine that witness in view of materials available with the office of concerned Transport Officer. In the

given scenario, it would be in the fitness of things if findings of the Tribunal on issue No.3 are set aside and the matter is remitted to the Tribunal for deciding issue No.3 afresh on the basis of materials already on record and evidence to be adduced by the insurance company as well as appellant/registered owner of the offending vehicle.

In view of what has been discussed hereinbefore, the appeal is partly allowed. Findings of the Tribunal on issue No.3 are set aside. The matter is remitted to the Tribunal for deciding issue No.3 afresh on the basis of materials already on record and additional evidence to be adduced by the insurance company and registered owner of the vehicle. The parties through their counsel are directed to appear before the Tribunal on 24.09.2019. The Tribunal shall complete adjudication of issue No.3 afresh within a period of three months of the parties putting in appearance.

The statutory amount of Rs.25,000/- be remitted to the Tribunal for payment to the claimants.

AUGUST 20, 2019

‘D. Gulati’

(REKHA MITTAL)

JUDGE

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