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

**FAO No.35 of 2017 (O&M)
Date of Decision : 25.03.2019**

Delhi Gujrat Fleet Carriers Pvt. Ltd.

Appellant

Versus

Rasmina and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. H.S. Dhandi, Advocate
for the appellant-owner.

Mr. Barjinder Singh, Advocate
for respondents No.1 and 2-claimants.

None for respondent No.3-driver.

Mr. Amit Kundra, Advocate
for respondent No.4-Insurance Company.

AVNEESH JHINGAN, J (Oral):

This is an appeal against award dated 20.05.2015 passed by the Motor Accident Claims Tribunal, Mewat [for brevity 'the Tribunal']. The grievance raised in the appeal is that the Insurance Company has wrongly been exonerated from the liability to pay compensation. The appeal is accompanied by an application under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 483 days in filing the present appeal.

Learned counsel for the applicant/appellant contends

that though there was service of the notice issued by the Tribunal but the said notice did not reach the appropriate officer of the company and hence it was proceeded against *ex-parte* in the claim proceedings. The same ground has also been taken for seeking condonation of delay. He further states that there was valid Permit and Driving Licence and the same have been appended with the present appeal.

It is not disputed that notice of the claim proceedings was received by the applicant. The only stand taken is that notice never reached the person dealing with such cases. Though the said stand cannot be accepted, but considering the fact that offending vehicle was insured and the documents relied upon are such that these cannot be procured subsequently, the delay is condoned.

The matter with regard to liability to pay the compensation is remitted back to the Tribunal to be decided afresh after permitting the parties to adduce evidence in support of their claims. The remitting of matter has been necessitated for the reason that Permit and Driving Licence are produced first time in the appeal. The insurance company is required to be given an opportunity to verify and rebut the same.

It is clarified that remitting of matter back to the Tribunal shall not affect the amount of compensation.

Considering the conduct of the appellant that inspite of service, it was proceeded against *ex-parte* and the other party

has been put to litigation for its default, the remittance of matter is subject to payment of costs of ₹10,000/- to be deposited with the Poor Patient Welfare Fund of Post Graduate Institute of Medical Education & Research (PGIMER), Chandigarh within one month.

Since the dispute is now only between the owner and insurer of the offending vehicle, they are directed to appear before the Tribunal on 07.05.2019.

The appeal is disposed of accordingly.

[AVNEESH JHINGAN]
JUDGE

March 25, 2019

pankaj baweja

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | No |