

In the High Court of Punjab and Haryana at Chandigarh

CM No. 8407-8408 CII of 2019 in/and
FAO No. 309 of 2018(O&M)
Date of Decision: 20.5.2019

Mohd. Yakoob

---Appellant

versus

Shriram General Insurance Company Limited and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Rajesh Lamba, Advocate
for the appellant**

Rekha Mittal, J.

CM No. 8407-CII of 2019

Prayer in this application is for condoning delay of 292 days in filing the application for restoration of the appeal.

In view of averments made in the application supported by an affidavit of Mr. Rajesh Lamba, Advocate, counsel for the applicant-appellant and arguments advanced, application is allowed and delay of 292 days in filing the application for restoration of the appeal stands condoned.

Disposed of accordingly.

CM No. 8408-CII of 2019

Prayer in this application is for restoration of the appeal dismissed for non-prosecution on 21.5.2018.

In view of averments made in the application supported by an affidavit of Mr. Rajesh Lamba, Advocate, counsel for the applicant-

appellant and arguments advanced, application is allowed and the appeal is restored to its original number and stage.

Disposed of accordingly.

FAO No. 309 of 2018

The present appeal directs challenge against award dated 18.12.2014 whereby compensation has been assessed on account of injuries sustained by Alim in a motor vehicular accident that took place on 16.3.2012 on account of rash and negligent driving of offending vehicle HR-38M-3176 of which the appellant was stated to be registered owner.

Counsel for the appellant would inform that appeal has been filed primarily to assail findings of the Tribunal on issue No. 3 on the basis whereof no liability has been fastened upon the insurance company and liability to pay compensation has been held to be that of driver and owner of offending vehicle.

Counsel for the appellant would argue that the Tribunal, in view of testimony of Faiz Khan RW2, Junior Clerk, RTA Office, Agra has held that original driving licence No. 5056/AG/07 purported to be issued by RTA Agra is a fake licence and renewal thereof by RTA, Gurgaon would not cure the inherent defect in the licence possessed by driver of the offending vehicle. It is further argued that since the appellant was ex parte before the Tribunal, he could neither cross examine the witness from the office of RTA, Agra nor adduce evidence to controvert the plea raised by the insurance company.

Apart from the fact that the appeal has been filed after delay of 704 days in filing and 297 days in refiling, the appeal sans merit and liable to be dismissed.

Perusal of findings of the Tribunal on issue Nos. 3 and 4, taken up together, would reveal that it has been established on record on the basis of testimony of a witness examined from the office of RTA, Agra that licence No. 5056/AG/07 was not issued from the said office in the year 2007. Since the original licence was not issued by the concerned licensing authority, in view of the settled position in law, renewal thereof would neither cure the defect in original licence nor the insured can be heard to say that licence possessed by driver of the offending vehicle is valid and he has not breached terms and conditions of insurance policy constituting defence under Section 149(2) of the Motor Vehicles Act, 1988. In this view of the matter, I do not find an error much less infirmity in findings of the Tribunal on issue No. 3 and accordingly the same are affirmed.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed.

(Rekha Mittal)
Judge

20.5.2019.

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No