

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

**FAO No.876 of 2018(O&M)**

**Date of decision: 18.1.2019**

Prabhjit Singh @ Bittu and another .....Appellants

VERSUS

Parveen Kaur and others .....Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: None for the appellants.

Mr. Satpal Dhamija, Advocate for respondent/insurance company.

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**REKHA MITTAL, J. (Oral)**

**CM No.2848-CII of 2018**

Prayer in this application is for condoning delay of 333 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Ranjit Singh, appellant No.2, the application is allowed. Delay of 333 days in filing the appeal stands condoned.

Disposed of accordingly.

**FAO No.876 of 2018**

The driver and owner of Tipper bearing No.PB-23-M-1576 have filed the instant appeal to the limited extent whereby the insurance company has been given recovery rights on the ground that the vehicle did not carry valid route permit.

Perusal of the records would reveal that the vehicle in question is registered in the State of Punjab and occurrence in question also took place in the area of Banur that falls within the jurisdiction of State of Punjab. Non-possessing of a route permit is not a defence available to the insurance company under Section 149(2) of the Motor Vehicles Act, 1988 because defence available to the insurance company is in respect of a permit and not a route permit. In the given circumstances, findings recorded by the Motor Accidents Claims Tribunal, SAS Nagar, Mohali (in short 'the Tribunal') giving right of recovery in favour of the insurer for want of route permit cannot be allowed to sustain and accordingly set aside. This apart, as there is no privity of contract between the driver and insurer, the Tribunal has seriously faulted by allowing right of recovery even against driver of the offending vehicle.

In view of what has been discussed hereinabove, the appeal is partly allowed in the aforesaid terms. As a natural corollary, the insurance company shall be jointly and severally liable to pay compensation without any right of recovery. No order as to costs. The application for additional evidence filed by the appellants shall be deemed to be dismissed.

**JANUARY 18, 2019**

'D. Gulati'

**(REKHA MITTAL)**

**JUDGE**

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