

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

-.-

FAO 10442 of 2014 (O&M)

Date of decision: 03.02.2020

*Sushila*

*.....Appellant*

***Versus***

*Hari Kishan and another*

*.....Respondents*

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

-.-

Present: Ms Anita Sharma, Advocate  
for the appellant

Mr. R C Gupta, Advocate  
for respondent No. 2

-.-

**Rekha Mittal, J.** (Oral)

**CM 28751 CII of 2014**

Prayer in this application is for condoning delay of 89 days in 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 89 days in filing the appeal stands condoned.

**Main case**

Challenge in the present appeal has been directed against award dated 23.01.2014 passed by the Motor Accidents Claims Tribunal, Ambala (in short, 'the Tribunal') whereby application for grant of compensation under Section 163-A of the Motor Vehicles Act, 1988 (in short, 'the Act') has been dismissed, in view of findings on issue No. 2 but no findings were recorded on issues No. 3 and 4.

Perusal of award would reveal that the claimant was travelling in Car bearing No. HR 01 AC 7627, owned and driven by her husband Hari Krishan Sharma - respondent No. 1. The Tribunal answered issue No. 2 against the appellant on the premise that she cannot be considered as a third party, therefore, the insurance company is not liable to indemnify the insured in respect of injuries sustained by his wife (appellant herein). The Tribunal, in para 12 of the award, has noticed that policy Ex.R1 is comprehensive policy and not an act policy. In the given scenario, the insurance company cannot escape its liability to pay compensation even to a gratuitous passenger travelling in the Car.

The Tribunal has neither assessed compensation nor recorded findings on issues No. 3 and 4. As such, the matter needs remittance to the Tribunal after setting aside findings of the Tribunal on issues No. 2 to 4 and ordered accordingly.

In view of what has been discussed hereinbefore, the appeal stands disposed of; findings of the Tribunal on issues No. 2 to 4 are set aside and the matter is remitted to the Tribunal for decision of the aforesaid issues, in accordance with law. The parties through their counsel are directed to appear before the Tribunal on 28.02.2020. The appellant shall ensure presence of respondent No. 1 before the Tribunal on the date fixed by this Court. The Tribunal shall decide the matter within a period of four months of the parties putting in appearance.

**(Rekha Mittal)**  
**Judge**

03.02.2020  
Mohan Bimbura

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