

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

-.-

FAO No. 5815 of 2019 (O&M)

Date of decision: 11.02.2020

Pyare Lal (deceased) through LR

.....Appellant

Versus

Pushpa Devi and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Amit Jain, Advocate
for the appellant

Mr. Satish Jain, Advocate
for respondent – insurance company

-.-

Rekha Mittal, J. (Oral)

CM 19476 CII of 2019

Prayer in this application is for condoning delay of 102 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 102 days in filing the appeal stands condoned.

Main case

Challenge in the present appeal has been directed against award dated 01.03.2019 passed by the Motor Accident Claims Tribunal, Gurugram to the limited extent that the insurance company has been given right of recovery on the question of driving licence possessed by Nawal Singh, driver of vehicle No. RJ 05-RA-3429.

The sole submission made by counsel for the appellant is that as driver had licence to drive a light motor vehicle and was driving tractor attached with trolley at the time of accident, he was duly licensed to drive offending vehicle, therefore, findings of the Tribunal in para 21 of award may be set aside.

Indisputably, offending vehicle is a tractor and its gross weight is less than 7,500 kilograms, thus, falls within the purview of 'light motor vehicle' under Section 2 (21) of the Motor Vehicle Act, 1988 (in short, the Act). The controversy raised in the present appeal is squarely covered in favour of the appellant by judgments of Hon'ble the Supreme Court *Nagashetty vs. United India Insurance Company Limited, 2001 (4) R.C.R. (Civil) 597* and *Mukund Dewangan vs. Oriental Insurance Co. Ltd., 2017 (7) Scale 731*. In this view of the matter, findings of Tribunal that either the insured is guilty of violating terms and conditions of insurance policy or the insurance company is entitle to have recovery right against the insured much less driver are patently incorrect and liable to be set aside. As a natural corollary, the insurance company shall be jointly and severally liable to pay compensation without any right of recovery.

In view of the above, the appeal is partly allowed in the aforesaid terms. Statutory amount of Rs.25,000/- be remitted to the Tribunal.

(Rekha Mittal)
Judge

11.02.2020
Mohan Bimbura

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