**In the High Court of Punjab and Haryana at Chandigarh**

**FAO- 5751 of 2019 (O&M)**
**Date of Decision: 4.2.2020**

**Ravinder Pal**

**---Appellant**

**versus**

**Reliance General Insurance Company Limited and others**

**---Respondents**

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

Present: None for the appellant
Mr. Sanjeev Kodan, Advocate
for the insurance company

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**Rekha Mittal, J.**

**CM No. 19228-CII of 2019**

Prayer in this application is for condoning delay of 152 days in filing the appeal.

Allowed as prayed for. Delay of 152 days in filing the appeal stands condoned.

**Main case**

Challenge in the present appeal has been directed against award dated 2.1.2019 to the limited extent qua right of recovery allowed against the appellant on the question of route permit to ply the offending auto rickshaw within the area of Jalandhar City.

A relevant extract from order of notice of motion dated 17.9.2019 reads as follows:-

> "Counsel for the appellant inter alia contends that since gross vehicle weight of the vehicle in question is only 725 Kgs, no permit in view of the provisions of Section 66(3)(i) of the Motor Vehicles Act, 1988 (in short "the Act") is required for

plying such a vehicle at a public place, therefore, right of recovery given in favour of the insurance company is liable to be set aside."

The Tribunal, in para 20 of the award, has noticed that gross vehicle weight of offending vehicle is 725 Kg and it falls within the definition of light motor vehicle.

Section 66 of the Act deals with necessity for permit. Sub Section (3) thereof says that the provisions of sub Section (1) shall not apply to vehicle detailed in clauses (a) to (p). Sub Section 3 clause (i) says about any goods vehicle, gross vehicle weight of which does not exceed 3000 kgs meaning thereby that there was no necessity to obtain a permit of the vehicle in question. This apart, the Tribunal has given right of recovery for want of a route permit but non-possessing of route permit is not a defence available to the insurance company under Section 149(2) of the Act. Analyzed from any angle, findings of the Tribunal giving right of recovery in favour of the insurance company can not sustain and accordingly set aside. As a natural corollary, insurance company shall be jointly and severally liable to pay compensation to the claimants without any right of recovery.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

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

**4.2.2020**
PARAMJIT

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