

S.No.101

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

FAO No.03 of 2019 (O&M)

Date of Decision:11.11.2022

Sachin Singla

.....Appellant

Vs.

United India Insurance Co. Ltd. and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Ms. Nilakshi Joseph, Advocate
for the applicant- appellant.

Mr. Amit Kundra, Advocate for
respondent No.1.

DEEPAK GUPTA , J.

CM No.33-CII of 2019

In a motor vehicular accident which took place on 09.07.2016, involving Toyota Etios car bearing registration no.HR-65-9570, one Karam Chand expired. His legal representatives filed claim petition seeking compensation against driver, owner and insurer of the offending vehicle. Vide award dated 25.08.2017, the Tribunal awarded compensation to the tune of ₹10,71,000/-. However, by observing that respondents No.1 and 2 did not have the valid registration certificate and the valid route permit on the date of accident, recovery rights were given to the Insurance Company.

Said award has been assailed by the owner by way of present appeal.

Along with the appeal, an application is moved for condoning the delay of 376 days in filing the appeal. It is contended that the appellant was relying upon his counsel appearing before the MACT and had

requested him to inform him as and when the claim petition is decided. He was not informed by the counsel. Appellant later on came to know about the decision and also about the fact that execution had already been filed. He then applied for the certified copy of the award and got the appeal prepared and this caused delay of 376 days.

Needless to say that the Insurance Company opposed the application.

Heard.

The reasons given for condoning the long delay of 376 days are not justifiable at all. A perusal of the award reveals that the appellant (owner) was duly represented by his counsel. Application is silent as to when the applicant- appellant contacted his counsel to know about the date of award or when he got the appeal prepared. In these circumstances, I find no reason to condone the delay and, therefore, the application stands dismissed.

FAO No.3 of 2019

As the application for condoning the delay has been dismissed, the appeal deserves to be dismissed on this ground itself. For the sake of arguments, even if the appeal is considered on the grounds pleaded by the appellant, it contains no merit.

Accident had taken place on 09.07.2016. Ex.R1 is the copy of letter issued by the Regional Transport Authority, Kurukshetra regarding verification of the particulars of vehicle No.HR-65(T)-9570, as per which permit No.18/taxi/14 dated 06.06.2014 issued to the owner Sachin Singla (appellant herein) was valid till 29.05.2019, although authorisation of the

permit (NP) of the vehicle was valid till 29.05.2015. The Tribunal only took into account the validity date of the authorisation for permit and did not take into account that permit No.18/taxi/14 was valid till 29.03.2019. Therefore, no violation can be inferred as far as the permit for the offending vehicle is concerned on the date of accident.

However, the verification details Ex.RW1/1 in respect of the certificate of registration of the offending vehicle reveals that it was registered as a transport vehicle being motor cab and the registration was valid upto 16.04.2016. Since the accident had taken place on 09.07.2016, so, it is obvious that on the date of accident, the registration of the vehicle had already expired.

In **Narinder Singh Vs. New India Assurance Company Limited (2014) 9 SCC 324**, the issue was considered by the Apex Court and it was held as under:-

“12. A bare perusal of Section 39 shows that no person shall drive the motor vehicle in any public place without any valid registration granted by the registering authority in accordance with the provisions of the Act.

13. However, according to Section 43, the owner of the vehicle may apply to the registering authority for temporary registration and a temporary registration mark. If such temporary registration is granted by the authority, the same shall be valid only for a period not exceeding one month. The proviso to Section 43 clarified that the period of one month may be extended for such a further period by

the registering authority only in a case where a temporary registration is granted in respect of chassis to which body has not been attached and the same is detained in a workshop beyond the said period of one month for being fitted with a body or unforeseen circumstances beyond the control of the owner.

14. Indisputably, a temporary registration was granted in respect of the vehicle in question, which had expired on 11.1.2006 and the alleged accident took place on 2.2.2006 when the vehicle was without any registration. Nothing has been brought on record by the appellant to show that before or after 11.1.2006, when the period of temporary registration expired, the appellant, owner of the vehicle either applied for permanent registration as contemplated under Section 39 of the Act or made any application for extension of period as temporary registration on the ground of some special reasons. In our view, therefore, using a vehicle on the public road without any registration is not only an offence punishable under Section 192 of the Motor Vehicles Act but also a fundamental breach of the terms and conditions of policy contract.”

Same issue was again considered by the Apex Court in **United India Insurance Co. Ltd. Vs. Sushil Kumar Godara** – Civil Appeal No.5887 of 2021 decided on 30.09.2021. After referring to **Narinder Singh's case (supra)**, it was held as under:-

“13. In the present case, the temporary registration of the respondent’s vehicle had expired on 28-07-2011. Not only was the vehicle driven, but also taken to another city, where it was stationed overnight in a place other than the respondent’s premises. There is nothing on record to suggest that the respondent had applied for registration or that he was awaiting registration. In these circumstances, the ratio of Narinder Singh (supra) applies, in the opinion of this court. That Narinder Singh (supra) was in the context of an accident, is immaterial. Despite this, the respondent plied his vehicle and took it to Jodhpur, where the theft took place. It is of no consequence, that the car was not plying on the road, when it was stolen; the material fact is that concededly, it was driven to the place from where it was stolen, after the expiry of temporary registration. But for its theft, the respondent would have driven back the vehicle. What is important is this Court’s opinion of the law, that when an insurable incident that potentially results in liability occurs, there should be no fundamental breach of the conditions contained in the contract of insurance. Therefore, on the date of theft, the vehicle had been driven/used without a valid registration, amounting to a clear violation of Sections 39 and 192 of the Motor Vehicles Act, 1986. This results in a fundamental breach of the terms and conditions of the

policy, as held by this Court in Narinder Singh (supra),
entitling the insurer to repudiate the policy.”

It is, thus clear that if the vehicle is driven/ used without a valid registration, it amounts to violation of Section 39 and 192 of the Motor Vehicle Act, 1988, which is a fundamental breach of the terms and conditions of the policy.

In view of the above, it is held that the Tribunal did not commit any error in granting recovery rights to the Insurance Company. Thus, there is no merit in the appeal.

Dismissed.

November 11, 2022
renu

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No