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**BEFORE THE NATIONAL LOK ADALAT,
PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH**

FAO-4288-2010 (O&M)

**DALIP KUMAR SAINI AND ANOTHER
VS
ICICI LOMBARD GENERAL INSURANCE COMPANY
LIMITED AND OTHERS**

Present: Mr. Rahul Vats, Advocate for the appellants.

Mr. Rajbir Singh, Advocate for the Insurance Company.

CM-18268-CII-2010

This is an application filed under Section 5 of the Limitation Act, for condonation of delay of 69 days in filing the present appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 69 days in filing the appeal is condoned.

Application is allowed.

Main case

The present appeal has been filed by the owner as well as the driver of the offending vehicle, against the award dated 06.02.2010, vide which claim petition No.50 dated 28.07.2008 titled as Nihal Singh and another Vs. Manphool and others was allowed and a compensation of an amount of Rs.3,63,300/- alongwith interest at the rate of 6% p.a. was awarded to the claimant from the date of petition till realization from respondent Nos.1 to 3 before the Tribunal jointly and severally. Respondent Nos.1 to 3 before the Tribunal were Manphool (Driver), Dalip Kumar Saini (Owner) and ICICI Lombard General Insurance Limited and liberty was

granted to respondent No.3 i.e. Insurance Company to recover the compensation amount from respondent Nos.1 and 2 (present appellants).

It has been jointly stated by counsel for the appellants as well as the Insurance Company that the claimants have not filed any appeal and that the matter has been compromised to the extent that recovery rights given to respondent No.3 i.e. Insurance Company would not be enforced by respondent No.3-Company and both counsels jointly pray that to the said limited extent, award of the Tribunal be modified. It is further submitted by the counsel for Insurance Company that awarded amount has already been paid by the Insurance Company to the claimants.

Learned counsel for the Insurance Company has also given statement, the relevant portion of the same is reproduced herebelow:-

“Statement of Sh. Rajbir Singh Advocate/Dy. Manager/Manager/authorized representative of ICICI Lombard General Insurance Company Limited.

I have instruction from respondent No.1-ICICI Lombard General Insurance Company Ltd. to forgo the recovery rights as granted to company vide impugned award passed by Ld. MACT, Rewari, against appellant (owner of offending vehicle). His appeal may kindly be disposed off.

RO/AC

Signatures: Sd/- Rajbir Singh

Name of the Officer with Mobile Number and e-mail I.D.

RAJBIR SINGH,

Advocate

Mob.:9855521626

Email Id: rajbirsinghadvocate81@gmail.com

Place: Chandigarh

Dated: 03.08.2022.”

We have heard the counsel for the parties and have perused the record.

A perusal of the record would show that the present appeal has been filed by the owner and driver of the offending vehicle and it is the case of both the parties that no appeal has been filed by the claimants and the Insurance Company has already paid the awarded amount to the claimants. The limited prayer made in the present appeal, to which both the parties are agreeable, is that direction given in the award dated 06.02.2010 passed by the Tribunal to the extent that respondent No.3 before the Tribunal i.e. Insurance Company would be at liberty to recover the amount of compensation from respondent Nos.1 and 2 (owner and driver) not be enforced by respondent No.3.

Keeping in view the abovesaid facts and circumstances and the statement reproduced hereinabove, the award dated 06.02.2010 passed by the Tribunal is modified to the extent that respondent No.1 in the present appeal i.e., ICICI Lombard General Insurance Company Limited would not be entitled to recover the compensation amount from the present appellants.

With the abovesaid modification, the present appeal is disposed of.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid order.

(VIKAS BAHL)
PRESIDENT

(PAWAN KUMAR MUTNEJA)
MEMBER

August 13, 2022
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