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

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FAO-27-2015 (O&M)
Decided on : 07.07.2022

ICICI Lombard General Insurance Company Ltd.

. . . Appellant(s)

Versus

Balbir Singh and others

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Rajbir Singh, Advocate
for the appellant(s).

None for respondents No.1 to 3.

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<u>MANJARI NEHRU KAUL, J. (Oral)</u>

<u>CM-122-CII-2015 AND</u>
<u>CM-123-CII-2015</u>

This are the applications filed under Section 5 of the Limitation Act for condonation of delay of 30 days in re-filing and 58 days in filing of the present appeal.

Notice of these applications were issued.

In view of the averments made in the applications, which are supported by the affidavits, same are allowed and delay of 30 days in re-filing and 58 days in filing the appeal are hereby condoned.

<u>FAO-27-2015</u>

Though notice was served upon the private respondents, however, the service remained unaffected.

The appellant-Insurance Company is impugning the award dated 26th March, 2014, passed by the Motor Accidents Claims Tribunal, Amritsar (hereinafter referred to as 'the Tribunal'), wherein, respondent

No.1/claimant (hereinafter referred to as 'the claimant') was granted compensation in the sum of Rs.15,00,000/- in a claim petition filed under Section 166 of the Motor Vehicles Act, 1966, on account of the injuries sustained by him in the motor vehicular accident, which took place on 29th November, 2006.

In brief, it was claimed that on 29.11.2006, at about 11:50 A.M., when the claimant was crossing the road, the offending vehicle bearing registration No. (see page 21) (hereinafter referred to as 'the offending car'), came in a rash and negligent manner and struck against him. The claimant was removed to the hospital, as he sustained serious and multiple injuries including fractures on his person. Respondent No.2 – Jatinder Singh, who was driving the offending car at the time of the accident in question, fled away from the spot. It was claimed that the petitioner was self employed and earning about Rs.40,000/- p.m. He remained hospitalized from 29th November, 2006 to 01st January, 2007, where, a considerable sum of money was spent on his treatment etc. As a result of the accident, the claimant had been rendered 100% disabled. As his entire future stood ruined he had slipped into depression. The Tribunal on the basis of the material and evidence led awarded the following compensation to the claimant:-

Fatal Accident		***Date of Accident***	***19.11.2006***
Age	65 years		
Occupation	Iron Smith		
Claimants	Injured himself		
	Head of claim	***Tribunal***	***High Court***
1.	Income	--	
2.	Add@ of increase	--	

3.	Deduction	--	
4.	Multiplicand	--	
5.	Multiplier	--	
6.	Loss of dependence	--	
7.	Medical expenses	Rs.1,71,945/-	
8.	Pain and suffering in view of injuries and hospitalization	Rs.25,000/-	
9.	Loss of income of the period he remained in hospital	Rs.20,000/-	
10.	Loss of amenities due to injuries suffered by him in the accident	Rs.15,000/-	
11.	Extra nourishment special diet	Rs.10,000/-	
	Total	Rs.2,41,945/-	

Learned counsel for the appellant-Insurance Co. has primarily challenged the impugned award on the following two grounds:-

I. That the Tribunal erred in holding that the alleged accident had occurred on account of the rash and negligent driving of the driver of the offending vehicle insured with it. Learned counsel submits that the claimant had miserably failed to lead any cogent evidence *qua* the claimant having suffered serious and multiple injuries, due to the involvement of the offending vehicle. Learned counsel submits that in fact, the offending vehicle was not even insured with the appellant-Insurance Company, as the cover note which was supplied by the owner of the offending vehicle was not legible and the policy could not be traced despite best efforts. Therefore, the Tribunal erred in fastening the entire liability on the appellant-Insurance Company.

II. That the amount of compensation awarded to the respondent-injured, on the face of it was excessive and not in consonance with the settled law.

I have heard learned counsel for the appellant and perused the relevant material on record.

This Court does not concur with the submissions made by the learned counsel for the appellant-Insurance Company. It is the stand of the appellant-Insurance Company that the offending vehicle was not insured with it. The only ground taken by the Insurance Company to evade the liability fastened upon it, is to the effect that the insurance cover note of the offending vehicle was not legible. This Court finds it extremely strange that once the insurance cover note bore 'No. 152572', then what prevented the Insurance Company from tracing it from their original records. The least that the Insurance Company could have done and which could be done easily, was to locate the original records. In case, the offending vehicle was actually not insured with it, the company could have produced their entire records before the Tribunal in their defence.

In the circumstances, the submissions made by the learned counsel that since the insurance cover note produced by the owner of the offending vehicle was not legible and as the original records of the insurance of the offending vehicle were untraceable, the Company was erroneously fastened the liability, deserves to be rejected outright, being meritless.

Coming to the next contention of the learned counsel that the compensation awarded was on the higher side, is also devoid of any merit. The compensation awarded by the Tribunal is just and adequate, which does not warrant any interference.

Consequently, the instant appeal fails and stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

July 07, 2022
J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No