

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

**Reserved on:14.12.2022  
Date of pronouncement: 19.12.2022**

**1. FAO-6390-2017 (O&M)**

Hemraj & another .....Appellants

*Versus*

Dalbir Singh & another .....Respondents

**2. FAO-6486-2017(O&M)**

Hemraj & another .....Appellants

*Versus*

Dalbir Singh & others .....Respondents

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present:- Mr.Bhupender Singh, Advocate,  
for the appellants (both the appeals).

Mr. Vinod Gupta, Advocate for  
for respondents No.2 (in FAO-6390-2017) and  
for respondent No.3 (in FAO-6486-2017).

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**HARKESH MANUJA, J.**

**CM-20440-CII-2017in FAO-6390-2017:**

**CM-20672-CII-2017in FAO-6486-2017:**

These are applications for seeking condonation of delay of 413  
days in filing the appeals.

For the reasons mentioned in the applications, which are  
supported by affidavits, sufficient cause has been shown for condoning the  
delay on account of paucity of funds for the payment of statutory fees as  
well as counsel fees which even otherwise has not been rebutted by way of

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filing any reply, the same are allowed and delay of 413 days in filing the appeals is condoned.

**CM-20441-CII-2017 in FAO-6390-2017:**

**CM-20673-CII-2017 in FAO-6486-2017:**

These are applications under Order 41 Rule 27 CPC, for placing on record the extract of driving license report and driving license by way of additional evidence.

I have perused the applications, which are supported by affidavits, though the driving license of the driver/ appellant No.2 was provided to the counsel before the learned Tribunal, however, due to oversight and inadvertent mistake on his part, it could not be produced or proved before the learned Tribunal. The document sought to be produced now goes to the root of the matter & would even enable this court to decide the dispute between the parties in a complete and effective manner. Vide order dated 22.04.2019, Insurance Company/ respondent No.2 was granted time to verify the driving license sought to be produced by appellant. In response CM-17719-CII-2022 has been filed to bring on record the verification report as annexure-R1 & the same has been allowed vide order dated 14.12.2012. Once the validity of the driving license produced by the appellant has been established on record after its due verification, it would be in the interest of justice to make it as part of record of the present appeal by even relying upon principle of natural justice. Accordingly, the above applications are allowed, report Ex-R1 as placed on record by the respondent No.2/ Insurance Company along with the driving license produced at the instance of appellants are taken on record as part

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of evidence. Therefore, to further the cause of justice, above applications are allowed.

### **Main Case:**

This order of mine shall dispose of two appeals bearing FAO No.6390 of 2017 titled as “**Hemraj and another vs Dalbir Singh and another**” and FAO No. 6486 of 2017 titled as “**Hemraj and another vs. Dalbir Singh and others**”(both appeals filed by driver/ owner for setting aside liability upon them).For convenience, the facts are taken from 6390 of 2017.

Brief facts of the case are that on 01.06.2014, claimant DalbirSingh along with his daughter namely Kusum was going on his motorcycle when it was hit by a truck bearing registration No. RJ-01GA-8898 (hereinafter referred as “Offending Vehicle”). In this accident, Kusum died at the spot and claimant Dalbir Singh received multiple grievous injuries.

On account of this accident, two claim petitions were filed, one by Dalbir Singh on account of injuries suffered by him and another by Dalbir Singh and his wife on account of death of their daughter Kusum. Both these claim petitions were decided by a common award dated 30.04.2016.

Learned Tribunal held that accident was caused due to the rash and negligent driving of driver/ appellant No.2 and awarded compensation in both the claim petitions as specified in the award. With respect to liability, learned Tribunal held that as driving license of the driver/ appellant No.2 was not brought on record, it was ordered that the Insurance Company/ respondent No.2 would pay the compensation to the claimants but right of

recovery was granted to recover the same from driver and owner of the offending vehicle.

In both these appeals, application under Order 41 Rule 27 of CPC were filed to bring on record the driving license of appellant No.2 and it was prayed that due to an inadvertent mistake of the counsel the same could not be exhibited, which has therefore been, allowed by this court.

Vide order dated 22.04.2019, learned counsel for the Insurance Company was granted time to verify the driving license which was supplied by the appellants. In response, CM-17719-CII-2022 has been filed by the Insurance Company to bring on record the verification report of the said driving license as Annexure-R1.The same has been allowed by this court vide order dated 14.12.2022.

Perusal of the report which has been brought on record by Insurance Company/ respondent No.2on verification shows that on the date of accident, appellant No.2/ driver of the offending vehicle was having a valid license.

Therefore, in view of this report, appeals filed on behalf of the driver/ owner of the offending vehicle are allowed and resultantly, Insurance Company shall have no recovery rights against the appellants.

Disposed of in the above terms.

Pending miscellaneous application(s), if any, shall also stand disposed of.

December 19, 2022

sanjay

(HARKESHMANUJA)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |