

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

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**CM-2413-CII-2023 in/and
FAO No.676 of 2023 (O&M)
DATE OF DECISION : 08th FEBRUARY, 2023**

The New India Assurance Company Ltd.

.... Appellant

Versus

Sunita Rani and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Rajneesh Malhotra, Advocate
for the appellant.

* * * *

RAJBIR SEHRAWAT, J. (Oral)

CM-2413-CII-2023

This is an application for condonation of delay of 1 day in filing the appeal.

Notice in the application.

Mr. Dheeraj Narula, Advocate, who is on caveat, accepts notice on behalf of respondent No.1 and submits that he has no objection, if the present application is allowed.

For the reasons mentioned in the application and in view of the no objection given by the counsel for respondent No.1, the application is allowed. The delay in filing the appeal is condoned.

Main Appeal

The present appeal has been filed by the appellant-Insurance Company against the award dated 06.10.2022 passed by the Motor

Accident Claims Tribunal, Sirsa (for short, the Tribunal), whereby respondent No.1 has been awarded total compensation of ₹14,00,056/- along with interest @ 6% per annum.

It is submitted by the counsel for the appellant that his sole argument on behalf of the appellant/insurance company is that; the FIR No.238 dated 11.11.2016 under Sections 279, 304-A and 337 IPC was also registered on account of the accident involved in the case, in which the driver, who is the respondent No.1 in the claim petition stands acquitted by the criminal court. Hence, the present appeal deserves to be allowed.

Notice of motion.

Mr. Dheeraj Narula, Advocate, who is on caveat, accepts notice on behalf of respondent No.1 and submits that the criminal case, in any manner, is not relevant qua decision of the claim petition. The counsel has relied upon the judgment rendered by this Court in the case of ***United India Insurance Company, Panipat Versus Mamta and others, FAO No.5296 of 2022, decided on 06.01.2023***. The counsel has further submitted that, otherwise; there is enough evidence led on file in the claim petition, which has been duly appreciated by the Tribunal. Hence, the present appeal deserves to be dismissed.

Having heard the counsel for the parties and having perused the case file, this Court does not find any substance in the argument raised by the counsel for the appellant. The FIR, or any criminal case, as such; is only a collateral fact, so far as the claim petition is concerned. This Court has already held in the case of ***Mamta and others*** (supra), that the factum of FIR can be used only for the limited purpose of

corroborating the fact qua the accident having happened, as such, and no other aspect of FIR or the criminal case is relevant in any manner qua the decision of the claim petition. The acquittal in criminal case can be for umpteen number of reasons, over which the claimant may not have any control or concern. The counsel for respondent No.1 has rightly argued that the claim petition has been decided by the Tribunal on the basis of the evidence led on file before it.

In view of the above, finding no merit in the present appeal, the same is dismissed.

All pending miscellaneous application(s) stands disposed of as such.

08th FEBRUARY, 2023
‘sandeep’

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>