

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
232 RA No.CR-84-2019 in
FAO-241-2015 (O&M)
Date of decision: 04.05.2023

Sandeep Kumar
Vs.
Sher Singh & Others
...Appellant(s)
...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Simran, Advocate for
Mr. Sanjeev Patiyal, Advocate
for the appellant/claimant.

Mr. Vinod Chaudhri, Advocate
for applicant/respondent No.3/Insurance Company.

NIDHI GUPTA, J.

CM-11495-CII-2019

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 203 days in filing the review application.

After going through the contents of the application, the same is allowed subject to all just exceptions.

MAIN CASE

Present Review Application has been filed by respondent No.3/United India Insurance Co. Ltd. under Order 47 Rule 1 read with Section 151 CPC for review of order dated 18.09.2018 passed by this Court in FAO-241-2015 which emanated from MACT Case No.131 of 2013 titled as "Sandeep Kumar Vs. Sher Singh & Others".

2. It is submitted by learned counsel for the Review-Applicant/Insurance Company that the applicant/United India Insurance Co. Ltd. was issued summons dated 09.02.2017 from this Court to appear before this Court on 19.05.2017 in present FAO-241-2015. It is submitted that vide order dated 18.09.2018, this Court had enhanced the compensation as granted by Motor Accident Claims Tribunal, Karnal in above mentioned MACT Case No.131 of 2013. It is submitted that in order to comply with order dated 18.09.2018 passed by this Court, while processing the case/file, the Accounts Office of the applicant/Insurance Company could not locate the insurance policy vide which the offending vehicle was insured. Accordingly, the applicant/Insurance Company asked the Divisional Office at Karnal to find out details of the insurance coverage to enable the office to make compliance of order of this Court. It is submitted that however, the Divisional Office also failed to link the insurance policy and therefore, had to revert to the learned MACT.

3. It is further submitted that after examination of the record, it was discovered that in actual fact, it was "National Insurance Co. Ltd." through its Divisional Manager which was the insurer of the offending truck bearing registration No.PB-02-AS-9777. It is submitted that the applicant was incorrectly arrayed as a party before the learned Tribunal in MACT Case No.131 of 2013 titled as "Sandeep Kumar Vs. Sher Singh & Others" as, applicant was not the insurer of the offending vehicle. Accordingly, vide order dated 23.08.2014, a correction was made in the Memo of Parties arrayed before the learned Tribunal. It is

submitted that despite the said correction, counsel for the claimant who had come before this Court for enhancement had impugned the Award which reflected United India Insurance Co. Ltd./applicant, and not National Insurance Co. Ltd. which was the actual insurer of the offending truck. It is submitted that therefore, order dated 18.09.2018 passed by this Court deserves to be reviewed as liability has been erroneously fastened upon the applicant/Insurance Company. Perusal of record reveals that even execution has been filed against the applicant instead of the National Insurance Co. Ltd.

4. Learned counsel appearing for the appellant/claimant admits the above factual position and does not contest the present review application.

5. Accordingly, in view of the facts as narrated above, which are not disputed by learned counsel for the appellant, it appears that inadvertantly the Memo of Parties as originally filed before the learned Tribunal was mechanically followed by learned counsel for the appellants before this Court. Admittedly, learned counsel for the appellants mistakenly did not advert to and overlooked the correction made in the Memo of Parties by the learned Tribunal vide order dated 23.08.2014, as a result of which liability has been incorrectly fastened upon the applicant/United India Insurance Co. Ltd..

6. In view of the above admitted facts, present review application is **allowed**, and order dated 18.09.2018 passed by this Court is reviewed/corrected to the extent that respondent No.3 herein be read

as ‘National Insurance Company Ltd. through its Divisional Manager
(Insurer of offending truck bearing registration No.PB-02-AS-9777)’.

7. Pending application(s) if any also stand(s) disposed of.

04.05.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No