

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

**FAO No. 5668 of 2014 (O&M)
DATE OF DECISION :- May 08, 2023**

Poonam Lata and others

...Appellants

Versus

Rakesh Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Vivek Suri, Advocate for the appellants.

Mr. Rajneesh Malhotra, Advocate for respondent No. 3.

C.M. No. 15789-CII of 2014

This is an application for condonation of delay of 33 days in filing of the appeal.

Heard.

For the reasons mentioned in the application and in the interest of justice, such delay is condoned.

The application is allowed.

FAO No. 5668 of 2014

On account of death of one Ashok Kumar having died due to injuries suffered in a motor vehicular accident which took place on 31.8.2011 in the area of front of Mango Restaurant, Village Naggal, within jurisdiction of Police Station Chandimandir, statedly on account of rash and negligent driving of a Tata truck bearing registration number HP-12-B-6973

by respondent No. 1 Rakesh Kumar, legal representatives of such deceased namely Poonam Lata and six others, all residents of Village Patrehri, Tehsil Naraingarh, District Ambala had brought a claim petition under Section 166 of the Motor Vehicle Act, 1988 against respondent No. 1 Rakesh Kumar, driver, M/s G.C. Beverages, District Solan, owner and Reliance General Insurance Company Limited, insurer of truck No. HP-12-B-6973 (hereinafter referred to as the offending truck).

After contest, the claim petition was allowed by the Motor Accident Claims Tribunal, Panchkula vide Award dated 31.10.2013 and compensation of Rs.9,13,600/- with interest at the rate of 7.5% per annum was granted to the petitioner claimants payable by respondents No. 1 and 2 jointly and severally. Respondent No. 3 Insurance Company was not made liable for the reason that respondents No.1 and 2 could not prove the insurance policy in respect of truck in question to show that it was insured with respondent No. 3 at the relevant time.

Feeling dissatisfied with the said Award the claimants have approached this Court by way of filing an appeal notice of which was given to the respondents.

Respondent No. 3 Insurance Company has put in appearance through counsel.

During the course of proceedings counsel for the appellants claimants has placed on record a copy of the insurance policy showing that offending truck was insured with respondent No. 3 Insurance Company at relevant time. Copy of that insurance policy was supplied to learned counsel for the Insurance Company, who after getting necessary instructions and verification has admitted that the truck in question was insured with

respondent No. 3 Insurance Company at the relevant time. It being so, the liability of insurance appears to be there.

Under the circumstances, the Tribunal observing that the Insurance Company is not liable to pay its compensation is not sustainable. Therefore, the impugned Award is set aside and matter is remanded to Motor Accident Claims Tribunal, Panchkula with a direction to allow the claimants to place on record the insurance policy which be then accepted and thereafter hearing arguments, the Tribunal may pass fresh Award in accordance with law. However, the finding with regard to issues No. 1 and 3 need not be disturbed and the Tribunal is required to give fresh verdict as regards issues No. 2 and 4 only.

The parties through counsel are directed to appear before the Tribunal on 30.5.2023. Since the case is quite old and the incident relates to the year 2011 and the Award having been passed on 31.10.2013, the Tribunal is directed to conclude the proceedings within a period of two months from the date of receipt of copy of this order there.

The appeal is disposed of.

(H.S. MADAAN)
JUDGE

May 08, 2023

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Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No