

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(102/2)

FAO-6534-2016 (O&M)
Date of Decision: 01.08.2023.

Karan Singh

.....Petitioner

Versus

Gorja Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: None for the applicant/appellant.

Sh. Subhash Goyal, Advocate
for respondent No.6/Insurance Company.

VIKRAM AGGARWAL, J. (ORAL)**CM-22337-CII-2016**

Prayer in this application is for condonation of delay of 1247 days in filing the appeal.

For the reasons mentioned in the application as also keeping in view the fact that the same is allowed and delay of 1247 days in filing the present appeal is condoned. Similar appeals have already been decided by this Court by way of decision dated 10.05.2018 passed in FAO No.10534 of 2014 titled as Karan Singh Vs. Ikwinder Kaur and others.

FAO-6534-2016

1. The present appeal has been preferred by the owner of the offending vehicle. The sole ground of challenge to the award dated 08.02.2013 passed by the Additional District Judge, (Exercising the Powers of Motor Accident Claims Tribunal), Moga is that all the respondents were held to be liable to make the payment of compensation jointly and severally. The case of the appellant is that since the offending vehicle was insured with Reliance General Insurance

indemnify the insured and, therefore, the liability should have been fastened only on the Insurance Company.

2. Learned counsel for respondent No.6 has placed reliance upon the decision of a Co-ordinate Bench dated 10.05.2018 passed in a Bunch of appeals arising out of the same accident wherein also the same contention had been raised. The contention was rejected by the Co-ordinate Bench holding that since the registered owner is also liable to pay compensation being vicariously liable for the rash and negligent act of his employee, the liability cannot be fastened upon the Insurance Company alone.

3. This Court in agreement with the decision of the Co-ordinate bench vide which the contention of the owner that the liability should have been fastened only upon the Insurance Company was rejected. The liability to pay the compensation has to be joint and several as the driver on account of his rash and negligent driving would be liable and the owner would be vicariously liable for the act and conduct of his driver. It would of course be the option of the claimants as to from whom the recovery is to be made which normally is the Insurance Company, unless and until the Insurance Company proves violation of the terms and conditions of the policy of Insurance Company.

In view of the aforementioned facts and circumstances, the present appeal fails and the same is accordingly dismissed.

01.08.2023

Rekha

(VIKRAM AGGARWAL)
JUDGE

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