



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

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**FAO-1943-2024 (O&M)
Date of Decision : 25.07.2024**

SHRI RAM GENERAL INSURANCE COMPANY LTD Appellant

VERSUS

GURNAM SINGH @ GAMA SINGH & ORS. Respondents

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajbir Singh, Advocate for the appellant.

ALKA SARIN, J. (ORAL)

CM-7471-CII-2024

1. This is an application for condonation of delay of 97 days in filing the main appeal.
2. For the reasons stated in the application, the same is allowed.
Delay of 97 days in filing the main appeal is condoned.

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3. The present appeal has been preferred against the award dated 06.09.2023 passed by the Motor Accident Claims Tribunal, Chandigarh.
4. Since the factum of the accident has not been questioned by the learned counsel for the appellant, the facts, as recorded by the Tribunal concerned, are not being reproduced herein for the sake of brevity.
5. The only argument raised by the learned counsel for the appellant is that though the involvement of the vehicle has been proved, however, the witness, who had stepped into the witness box before the

Tribunal as PW-2, namely, Jagjit Singh, had turned hostile before the Criminal Court which had resulted in acquittal of driver-respondent No.4 herein. His deposition was placed on the record before the Tribunal, however the same has not been considered.

6. Heard.

7. The only argument of the learned counsel for the appellant is that the witness (PW-2) had turned hostile before the Criminal Court which had resulted in acquittal of driver-respondent No.4 herein. It is trite that the findings of the Criminal Courts are not binding on the Civil Courts.

8. In the case of **N.K.V. Bros (P) Ltd. Vs. M. Karumai Ammal [(1980) 3 SCC 457]** the case set up was that since the criminal case in relation to the accident had ended in acquittal, hence, the claim under the Motor Vehicles Act, 1988 should also be rejected. The Supreme Court negated the said argument and held as under :

“3. Road accidents are one of the top killers in our country, specially when truck and bus drivers operate nocturnally. This proverbial recklessness often persuades the courts, as has been observed by us earlier in other cases, to draw an initial presumption in several cases based on the doctrine of res ipsa loquitur. Accidents Tribunals must take special care to see that innocent victims do not suffer and drivers and owners do not escape liability merely because of some doubt here or some obscurity there. Save in plain cases, culpability

must be inferred from the circumstances where it is fairly reasonable. The court should not succumb to niceties, technicalities and mystic maybes. We are emphasising this aspect because we are often distressed by transport operators getting away with it thanks to judicial laxity, despite the fact that they do not exercise sufficient disciplinary control over the drivers in the matter of careful driving. The heavy economic impact of culpable driving of public transport must bring owner and driver to their responsibility to their neighbour. Indeed, the State must seriously consider no-fault liability by legislation. A second aspect which pains us is the inadequacy of the compensation or undue parsimony practised by tribunals. We must remember that judicial tribunals are State organs and Article 41 of the Constitution lays the jurisprudential foundation for State relief against accidental disablement of citizens. There is no justification for niggardliness in compensation. A third factor which is harrowing is the enormous delay in disposal of accident cases resulting in compensation, even if awarded, being postponed by several years. The States must appoint sufficient number of tribunals and the High Courts should insist upon quick disposals so that the trauma and tragedy already sustained may not

be magnified by the injustice of delayed justice. Many States are unjustly indifferent in this regard.”

In Krishan Vs. Tarawati [2011 (3) PLR 29] it was held :

“It is also stated that in the criminal case the witnesses contradicted themselves in their versions to what they stated before the Tribunal. This cannot make the position better, for, a criminal Court's judgment acquitting a driver would have no relevance in a case before the Tribunal. The standards of proof of a criminal case are different from tortious claims for accident victims that are required to be established before the Tribunal and the Tribunal will consider the issue of negligence by the evidence adduced before it, uninfluenced by the fact of pendency of the criminal case or acquittal given by the criminal Court. It will be relevant no more than the fact that a criminal case had been registered and that it had concluded before the criminal Court.”

In Harjinder Kaur & Ors. Vs. Pushpinder Kumar & Ors.

[2017 (4) ACC 395] this Court held that *“It is settled law that the Tribunal decides the claim cases on the basis of preponderance of probabilities and strict Rules of evidence are not applicable. It is further settled beyond any doubt that the outcome of a criminal trial is not binding on the Tribunal”.*

9. In view of the above settled position of law, it is clear that *dehors* the outcome of the criminal proceedings, the matter before the Motor

Accident Claims Tribunal is to be decided on merits, in accordance with law and as per the evidence available on the record.

10. In view thereof, I do not find any merit in the present appeal and the same, being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

25.07.2024

Aman Jain

(ALKA SARIN)

JUDGE

*NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*