

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**732****FAO No.5815 of 2013 (O&M)****Reserved on : 14.02.2024****Date of Decision : 26.02.2024**

Royal Sundaram Finance Insurance Co. Ltd.

....Appellant

VERSUS

Pardeep Kumar and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. D.K. Prajapati, Advocate for the appellant.

None for the respondents.

ALKA SARIN, J.**CM-24176-CII-2013**

1. This is an application for condonation of delay of 24 days in re-filing the present appeal.

2. For the reasons stated in the application, the same is allowed.

The delay of 24 days in re-filing the present appeal is condoned.

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3. The present appeal has been preferred by the Insurance Company aggrieved by the award dated 02.07.2013 passed by the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as the 'Tribunal').

4. Learned counsel for the appellant-Insurance Company would contend that the factum of the accident itself was not proved and that duplicate bills had been given, however, the person issuing the bills was not

examined hence depriving the appellant-Insurance Company the right to cross-examine the person.

5. None has appeared on behalf of the respondents, despite service.

6. In the present case the claimant-respondent No.1 had filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 for compensation on account of damage to his vehicle MAX bearing registration No.HR-61-8631 in a motor vehicle accident alleged to have been caused by respondent No.3 herein on 17.12.2009 while driving Tanker bearing registration No.GJ-1-BV-1813 (hereinafter referred to as the 'offending vehicle') owned by respondent No.2 herein. Claimant-respondent No.1 filed the claim petition averring therein that he spent Rs.2,00,000/- on repair of his vehicle and he was entitled to recover the same. On notice, the driver and owner of the offending vehicle did not appear before the Tribunal, despite service. The appellant-Insurance Company filed a written statement, however, no evidence was produced by the appellant-Insurance Company. Claimant-respondent No.1 produced on record the bills pertaining to the repair of the vehicle, however, no evidence was led by the appellant-Insurance Company to refute the same. A copy of the FIR was also placed on the record. A copy of the judgment (Ex.P3) vide which respondent No.3 herein was convicted for the offences punishable under Sections 279, 337 and 338 of the Indian Penal Code, 1860 was also placed on the record. Based on the evidence on the record, the Tribunal awarded an amount of Rs.1,80,000/- recoverable from the appellant-Insurance Company as well as respondent Nos.2 and 3 jointly and severally along with interest @ 6% per annum from the date of the claim petition till realization. Vide order dated

03.12.2013 the amount of compensation was directed to be released to the claimant-respondent No.1 on furnishing of adequate security to the satisfaction of the Tribunal. Learned counsel for the appellant-Insurance Company has informed the Court that the said amount has since been released to the claimant-respondent No.1.

7. Learned counsel for the appellant-Insurance Company has not been able to convince this Court that the claimant-respondent no.1 had failed to prove the factum of the accident or the repair bills. There was no credible evidence led by the appellant-Insurance Company to disprove the case set-up by the claimant-respondent No.1. Even before this Court the counsel for the appellant-Insurance Company has been unable to point out anything on the record to substantiate the arguments made. No other point was argued.

8. In view of the above, I do not find any merits in the present appeal, which is accordingly dismissed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

26.02.2024
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO