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

RSA-2099-2022 (O&M)

Date of Decision : 15.01.2025

Varinder Aggarwal

... Appellant(s)

Versus

United India Insurance Co. Ltd. & Anr

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Mona Goyal, Advocate for the appellant.

ALKA SARIN, J. (Oral)

CM-7247-C-2022

1. This is an application for condonation of delay of 72 days in filing the appeal.

2. For the reasons stated in the application, delay of 72 days in filing the appeal is condoned. CM stands disposed off.

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3. The present appeal has been preferred by defendant No.2-appellant challenging the judgment and decree dated 28.03.2012 passed by the Trial Court and the judgment and decree dated 29.10.2021 passed by the First Appellate Court.

4. Brief facts relevant to the present *lis* are that the plaintiff-respondent No.1-Insurance Company filed the present suit under Order 37 of the Code of Civil Procedure, 1908 (CPC) for recovery of ₹2,56,284/-. It was the case set up that defendant No.2 (appellant herein) was the owner of truck bearing registration No.PIB-9370 and defendant No.1 (respondent No.2

herein) was the driver of the truck. The said truck was insured with the plaintiff-respondent No.1. The truck struck against a cyclist who was going to his school on 08.02.1993 at about 08.40 am causing him multiple injuries. The cyclist succumbed to his injuries due to the rash and negligent driving of the driver of the offending truck. A claim petition was filed by the parents of the deceased under Section 166 of the Motor Vehicles Act, 1988 before the District Judge, Faridkot who vide award dated 06.10.2003 awarded a compensation of ₹54,000/- alongwith interest @ 12% per annum w.e.f. 29.04.1993. The plaintiff-respondent No.1 challenged the same before this Court by preferring an appeal bearing No.1549 of 1996. Cross-objection No.31-C/II of 1998 were also filed and the matter was remanded to redetermine issue No.4. In the first round, the Insurance Company (plaintiff-respondent No.1 herein) was held liable to pay the amount. The matter was re-adjudicated upon and the Insurance Company (plaintiff-respondent No.1 herein) was given recovery rights. In the execution the amount was paid by the plaintiff-respondent No.1-Insurance Company and, hence, the suit for recovery. On notice, defendant No.1 (respondent No.2 herein) filed a written statement raising various preliminary objections. Defendant No.2 (appellant herein) raised preliminary objections regarding jurisdiction, the suit being barred by limitation. It was admitted that the insurance policy was issued by the plaintiff-respondent No.1. However, it was stated that the accident occurred due to the negligence of the deceased. Replication was filed. On the basis of the pleadings, the following issues were framed :

1. Whether the plaintiff is entitled to recover ₹2,56,284/- from the defendant as per judgment dated

6.10.2003 passed by the court of Sh. Gurdev Singh,
MACT Faridkot ? OPP

2. If issue No.1 is proved, whether the plaintiff is
entitled to interest on the said amount and at what rate ?
OPP

3. Whether this court has no territorial jurisdiction to
try and decide the suit ? OPD

4. Whether the suit has been filed within limitation ?
OPP

5. Whether the suit has not been filed through
competent authorized person ? OPD

6. Relief.

5. The Trial Court vide judgment and decree dated 28.03.2012 decreed the suit for recovery of ₹1,42,421/- alongwith interest @ 9% per annum from the date of payment of the said amount till filing of the suit and 6% per annum from filing of the suit till actual realization. Aggrieved by the same, an appeal was preferred which appeal was also dismissed by the First Appellate Court vide the judgment and decree dated 29.10.2021. Hence, the present regular second appeal.

6. The only argument raised by the learned counsel for the defendant No.2-appellant is that the Tribunal had no territorial jurisdiction and, hence, the award passed by the Tribunal was not sustainable in law and therefore the suit for recovery should have been dismissed.

7. I have heard the learned counsel for the defendant No.2-appellant.

8. In the present case the award dated 06.10.2003 passed by the Tribunal was not challenged by the defendant No.2-appellant herein as affirmed by the learned counsel for the defendant No.2-appellant. The learned counsel for the defendant No.2-appellant is seeking to challenge the findings returned by the Tribunal in the award dated 06.10.2003 passed by the MACT Faridkot. Having chosen not to challenge the award, in the present suit which had been filed by the plaintiff-respondent No.1-Insurance Company for recovery of the amount, no challenge can be laid to the jurisdiction of the Tribunal.

9. In view of the above, no fault can be found with the judgments and decrees passed by both the Courts. No question of law, much less any substantial question of law, arises in the present case. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

15.01.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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