



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

Sr. No.121

**CM-3689-CII-2024,
CM-2709-CII-2024 with
CM-2710-CII-2024,
CM-2711-CII-2024 and
XOBJC-13-2024 in/and
FAO-1052-2014 (O&M)
Date of Decision: 30.10.2025**

NATIONAL INSURANCE COMPANY LTD.

....Appellant

Versus

RAM RATI AND OTHERS

.....Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present:- Ms. Mallika Dhillon, Advocate
for the appellant-Insurance Company
(through video conferencing).

Mr. Sukhbir Singh Sahu, Advocate
for the respondents.

HARPREET KAUR JEEWAN, J. (Oral)

1. The present appeal has been filed by the Insurance Company against the Award dated 24.08.2013, passed by the Motor Accident Claims Tribunal, Fatehabad (*hereinafter referred to as "the Tribunal"*).

2. Misc. application bearing No.CM-2709-CII-2024 has been filed by the Cross-objector/claimants for condonation of 223 days' delay in filing the accompanying cross-objections, whereby prayer has been made for enhancement of compensation.

3. The appeal filed by the Insurance Company and the CM application filed by the claimant/cross-objectors are arising out of the same Award, as such, both shall be decided together by this common order.

4. The factual matrix in brief is as under:-

4.1 The claimants filed claim petition seeking compensation regarding the death of Pala Ram in a roadside accident which occurred on



10.02.2011. Pala Ram (since deceased) was travelling on a motorcycle bearing registration No.HR-99FL(T) 6778 along with two pillion riders, namely, Satbir Singh and Raj Kumar. On way, a car bearing registration No. AS-25-1074 struck against the motorcycle. The accident is alleged to have taken place due to rash and negligent driving of the car by respondent No.5- Krishan Kumar. The motorcyclist-Pala Ram ultimately succumbed to the injuries sustained in the accident.

4.2 The claim petition was contested by the driver of the car Krishan Kumar. Ashok Kumar, owner of the car did not appear before the Tribunal and he was proceeded against *ex parte*. The Insurance Company of the Car contested the petition and filed separate written statement.

4.3 The Tribunal framed the following issues:-

- “1. Whether the deceased Pala Ram died in an accident caused with Vehicle No. HR-99-FL (Temp) 6866 due to rash and negligent driving of respondent No.1 as alleged? ...OPP*
- 2. Whether the claimants are entitled to compensation, if so, to what amount of compensation and from whom? ...OPP.*
- 3. Whether there are violations of the terms and conditions of the insurance policy, if so its effect?... OPR*
- 4. Relief.”*

4.4 The Tribunal Awarded a sum of Rs.7,31,200/- to the claimants along with interest @ 9% per annum from the date of filing of the claim petition till its realization.

5. Learned counsel for the appellant submitted that the Insurance Company cannot be fastened with the liability since the motorcyclist was also negligent as driving a motorcycle with 02 pillion riders clearly indicates negligence on the part of the driver of the motorcycle. As such, the Tribunal ought to have held the deceased responsible for contributory negligence. In this regard, reliance has been placed on **Angrejo Devi and others Vs. Jai**



Parkash and others, (2013) 2 RCR (Civil) 161; and *Ved Kumari and another Vs. Kishan Lal and others, 1998 (47) DRJ.*

6. On the other hand, learned counsel for the respondent-claimants submitted that the motorcyclist was not negligent. It is submitted that the driver of the motorcycle cannot be held responsible for contributory negligence merely on the ground that there were 02 pillion riders; other factors and evidence has also to be considered to prove negligence on his part resulting into the accident. The Insurance Company has neither taken any plea of contributory negligence in the written statement, nor examined any witness, nor such issue was framed by the Tribunal. Reliance has been placed on the decision in *Mohammed Siddique and another Vs. National Insurance Company Limited and others*, 2020 (3) SCC 57; and *Arman and another Vs. Sanjeev Kumar and others, 2021 ACJ 1505.*

7. I have considered the aforesaid submissions and perused the paper-book.

8. Satbir Singh, who was one of the occupants of the motorcycle, has appeared as PW-2 and categorically stated that Pala Ram (since deceased) was driving the motorcycle very carefully & cautiously, at a moderate speed and he was going on the correct side of the road. He was hit by the car being driven by respondent No.5 rashly and negligently. He has submitted that the car went ahead of the motorcycle and suddenly applied the brakes without giving any indicator. As a result, the driver of the motorcycle also applied brakes, but the motorcycle struck into the car. In the cross-examination, he has stated that the motorcyclist was going at a speed of 40 kmph, whereas speed of the car was 100 kmph. He is an injured eyewitness and to confront the statement of this witness, the car driver has not stepped into the witness box. Even a criminal case was registered



against the driver of the car only.

8.1 Evaluating the said evidence on record, the finding of the Tribunal that the car driver was negligent resulting in the accident cannot be held to be erroneous merely on the ground that there were 02 pillion riders on the motorcycle. The Hon'ble Apex Court in **Mohd. Siddique (supra)**, while considering a matter where the motorcyclist on which the deceased was travelling was hit by a car and also where the deceased was one of the 02 pillion riders on the motorcycle, did not accept the findings of the High Court that 02 persons on the pillion of a motorcycle could have added to the imbalance by observing that such observations are nothing but presumptions. It was also held that in the absence of any evidence to show that the wrongful act on the part of the victim-deceased contributed either to the accident or to the nature of injuries sustained by him, the victim cannot be held guilty of contributory negligence. The observations by the Hon'ble Apex Court are as under:-

“13. But the above reason, in our view, is flawed. The fact that the deceased was riding on a motor cycle along with the driver and another, may not, by itself, without anything more, make him guilty of contributory negligence. At the most it would make him guilty of being a party to the violation of the law. Section 128 of the Motor Vehicles Act, 1988, imposes a restriction on the driver of a two wheeled motor cycle, not to carry more than one person on the motor cycle. Section 194C inserted by the Amendment Act 32 of 2019, prescribes a penalty for violation of safety measures for motor cycle drivers and pillion riders. Therefore, the fact that a person was a pillion rider on a motor cycle along with the driver and one more person on the pillion, may be a violation of the law. But such violation by itself, without anything more, cannot lead to a finding of contributory negligence, unless it is established that his very act of riding along with two others, contributed either to the accident or to the impact of the accident upon the victim. There must either be a causal connection between the violation and the accident or a causal connection between the violation and the impact of the accident upon the victim. It may so happen at times, that the accident could have been averted or the injuries



sustained could have been of a lesser degree, if there had been no violation of the law by the victim. What could otherwise have resulted in a simple injury, might have resulted in a grievous injury or even death due to the violation of the law by the victim. It is in such cases, where, but for the violation of the law, either the accident could have been averted or the impact could have been minimized, that the principle of contributory negligence could be invoked. It is not the case of the insurer that the accident itself occurred as a result of three persons riding on a motor cycle. It is not even the case of the insurer that the accident would have been averted, if three persons were not riding on the motor cycle. The fact that the motor cycle was hit by the car from behind, is admitted. Interestingly, the finding recorded by the Tribunal that the deceased was wearing a helmet and that the deceased was knocked down after the car hit the motor cycle from behind, are all not assailed. Therefore, the finding of the High Court that 2 persons on the pillion of the motor cycle, could have added to the imbalance, is nothing but presumptuous and is not based either upon pleading or upon the evidence on record. Nothing was extracted from PW3 to the effect that 2 persons on the pillion added to the imbalance.

14. *Therefore, in the absence of any evidence to show that the wrongful act on the part of the deceased victim contributed either to the accident or to the nature of the injuries sustained, the victim could not have been held guilty of contributory negligence. Hence the reduction of 10% towards contributory negligence, is clearly unjustified and the same has to be set aside."*

8.2 The Insurance Company has neither taken a plea in the written statement regarding contributory negligence, nor the car driver has stepped into the witness box to say anything in this regard. As such, in view of the evidence on record and keeping in view the ratio of the decision of Hon'ble Supreme Court in **Mohd. Siddique (supra)**, the deceased cannot be held liable for contributory negligence.

9. The decision relied upon by the Insurance Company in **Ved Kumari (supra)** is distinguishable on facts as in the said case, it was observed that the Tribunal has also considered other evidence on record to arrive at a conclusion that there was some contributory negligence on the



part of the motorcyclist. Whereas, in the present case, there are no such findings by the Tribunal.

9.1 The ratio of the decision in *Angrejo Devi (supra)* is also distinguishable on factual aspects. There was substantial cross-examination of the eyewitness of the accident-Roshan Lal, PW-3 in the said case on the point that the driver of the motorcycle could not control the vehicle because 02 persons were riding pillion on the motorcycle. However, in the present case, neither the Insurance Company has taken such a plea of contributory negligence, nor there is any other evidence. Neither the site-plan prepared by the Investigating Officer at the time of inspection of the spot of accident has been placed on record, nor has any oral or documentary evidence been led to show negligence on the part of the motorcyclist. As such, findings of the Tribunal holding the car driver as negligent do not suffer from any illegality.

10. In view of the above discussion, the present appeal is dismissed, affirming the findings of the Tribunal.

11. I have also heard the applicant/cross-objectors seeking condonation of delay in filing the cross-objections.

12. The Tribunal passed the Award on 24.08.2013 in the presence of the counsel for the applicant/cross-objectors, whereas the cross-objections have been filed in the year 2024. There is no sufficient explanation for such a long delay in raising a challenge to the compensation awarded by the Tribunal. An averment has been made in the application that the Insurance Company did not pay the compensation as awarded by the Tribunal; the claimants had no source of income, as such they could not file an appeal against the impugned award. The applicants have neither disclosed the date on which they have received the compensation awarded by the Tribunal nor



have they placed on record any document regarding delay on the part of the Insurance Company in releasing such compensation. In such circumstances, merely the financial crunch cannot be accepted as a reasonable ground for a long delay of 223 days in raising a challenge to the compensation awarded by the Tribunal.

13. The Hon'ble Apex Court, in *State of Madhya Pradesh vs. Ramkumar Choudhary*, Special Leave Petition (C), Diary No.48636 of 2024, Date of Decision: 29.11.2024, has observed that the discretion to condone the delay has to be exercised judiciously based on the facts and circumstances of each case and the expression "sufficient cause" cannot be liberally interpreted, if negligence, inaction or lack of bona fide is attributed to the party. It was further observed that where a case has been presented in the Court beyond the period of limitation, the petitioner has to explain the Court as to what the "sufficient cause" was, which means an adequate and enough reason which prevented him to approach the Court within limitation. Reference was also made to the observations of the Hon'ble Apex Court in *"Majji Sannemma vs. Reddy Sridevi, 2021 SCC Online SC 1260"*, wherein, it was held that even though limitation may harshly affect the rights of a party, it has to be applied with all its rigour when prescribed by statute. A reference was also made to the decision of the Hon'ble Apex Court in *Ajay Dabra vs. Pyare Ram, 2023 SCC Online SC 92*, wherein, it was held as follows:-

"13. This Court in the case of Basawaraj v. Special Land Acquisition Officer [(2013) 14 SCC 81] while rejecting an application for condonation of delay for lack of sufficient cause has concluded in Paragraph 15 as follows:

"15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a



party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."

14. Therefore, we are of the considered opinion that the High Court did not commit any mistake in dismissing the delay condonation application of the present appellant."

14. In view of the facts and circumstances of this case, this Court is of the considered opinion that no sufficient cause has been explained for the inordinate delay of 223 days in filing the present cross-objections.

15. Consequently, CM-2709-CII-2024, being devoid of merits, is dismissed.

16. Since the cross-objections have been filed beyond the period of limitation and the application seeking condonation of delay has been dismissed, as such, the cross-objections are also dismissed.

**(HARPREET KAUR JEEWAN)
JUDGE**

30.10.2025
Mahima/atul

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