IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

227 **FAO-5269-2013** (O&M)
Date of Decision:08.01.2025

RAJ KUMAR
... Appellant

V/S

MANGAT RAM AND ORS.
… Respondents

227 -2 **FAO-5270-2013** (O&M)

RAJ KUMAR
... Appellant

V/S

SOHAN LAL AND ORS.
… Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Ashish Gupta, Advocate for the appellant.

Mr. Paul S. Saini, Advocate with
Mr. Vipul Sharma, Advocate for respondent No.2.

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SUVIR SEHGAL, J. (ORAL)

CM-22463-CII-2013 in FAO-5269-2013 and
CM-22465-CII-2013 in FAO-5270-2013

1. For the reasons given in the applications filed under Section 5 read with Section 14 of the Limitation Act, delay of 326 days in filing of the appeals is condoned.

2. Applications are allowed.

Main cases.

3. This order shall dispose of both the above noted appeals.

4. For the sake of convenience, factual position is being taken from FAO No. 5269 of 2013.

5. The sole submission of counsel for the appellant, who is the owner of the offending vehicle, is that the appellant had produced the policy dated 26.08.2006, Ex.R-1 and had taken a stand that the offending vehicle was insured. He submits that despite the fact that the insurance policy was on the record, the Motor Accident Claims Tribunal (for short ‘the Tribunal’), while accepting the claim petition has erred in granting recovery rights to the Insurance company. Counsel for the Insurance Company has however, opposed the prayer made in the appeal and has submitted that the driver-respondent No.3 did not possess a valid driving licence.

6. I have heard counsel for the parties and considered their respective submissions.

7. Issue No.3 framed by the Tribunal was regarding the validity of the driving licence and onus to prove it was on the Insurance Company-respondent No.2. A perusal of the impugned award shows that respondent No.2 failed to discharge the onus and the Tribunal returned the finding under this issue against the Insurance Company. Insurance policy was tendered in evidence by the appellant and was duly exhibited however, subsequently, as the appellant failed to appear, he was proceeded against ex-parte. This Court has examined the insurance

policy as well as the registration certification, Ex.R-2 and finds that both the documents pertain to the offending vehicle, which is covered by the Insurance policy and the maximum liability of the Insurance Company under the policy is Rs.7.50 Lacs. The awards under both the appeals are lesser than the amount of the maximum liability that can be fastened upon the Insurance Company. This Court is therefore, of the view that the award passed by the Tribunal deserves to be altered.

8. Accordingly, impugned award is modified. Liberty given to the Insurance company to effect recovery from the owner and the driver of the vehicle is withdrawn.

9. Both the appeals as well as pending applications are disposed of.

08.01.2025 **(SUVIR SEHGAL)**
pooja saini **JUDGE**

Whether Speaking/Reasoned	*Yes/No*
Whether Reportable	*Yes/No*