

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

**FAO No.2976 of 2026 (O&M)
Date of decision : 20.05.2026**

THE ORIENTAL INSURANCE COMPANY LIMITED ...Appellant

Versus

MADHU AND ANOTHER ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Armaan Gagneja, Advocate for the appellant.

PANKAJ JAIN, J. (ORAL)

CM-10773-CII-2026

This is an application filed under Section 5 of Limitation Act seeking condonation of delay of 38 days in filing the instant appeal.

For the reasons recorded in the application, this Court is satisfied that the applicant/appellant has made out a sufficient cause for condonation of delay.

Consequently, the present application is allowed. The delay of 38 days in filing the instant appeal is hereby condoned.

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Insurance Company is in appeal aggrieved of the order dated 29.01,2026 passed by the Commissioner under the Employee's Compensation Act, 1923.

2. Claimants filed application seeking compensation on account of death of one Kamal, who died at the age of 20 years employed as cleaner on the vehicle bearing registration No.UP-85-CT-2074 insured by the appellant.

3. The only argument raised by counsel for the appellant is that the driving licence having not been produced, the insurance company ought to have been granted recovery rights.

4. Having heard counsel for the parties and after carefully perusing the records of the case, this Court finds that the plea raised by counsel for the appellant, sans merit and cannot be accepted.

5. As per settled proposition of law, the onus to prove breach of terms and conditions of the policy lies upon the insurance company. In order to prove the breach, the insurance company was required to discharge its onus and should have called for production of valid driving licence of the driver. Admittedly, no such application was moved. From the perusal of the impugned order, it is evident that no issue w.r.t. breach of terms and conditions of the insurance policy was raised before the commissioner. In view thereof, this Court does not find any reason to interfere in the pure finding of facts recorded by the Commissioner exercising powers under the Act of 1923.

6. In terms of Section 30, employer in order to maintain appeal under the 1923 Act, is required to show substantial question of law involved. Section 30 of 1923 Act has been interpreted by Supreme Court in the case of

‘North East Karnataka Road Transport Corpn. Vs. Sujatha (2019) 11 SCC 514, observing as under:

“11. The appeal provided under Section 30 of the Act to the High Court against the order of the Commissioner lie only against the specific orders set out in clause (a) to (e) of Section 30 of the Act with a further rider contained in first proviso to the Section that the appeal must involve substantial question of law.

12. In other words, the appeal provided under Section 30 of the Act to the High Court against the order of the Commissioner is not like a Regular First Appeal akin to section 96 of the Code of Civil Procedure, 1908 which can be heard both on facts and law. The appellate jurisdiction of the High Court to decide the appeal is confined only to examine the substantial questions of law arising in the case.

7. Finding no question of law, much less substantial question of law involved in the present appeal, the same is ordered to be dismissed.
8. Pending application, if any, shall also stand disposed off.

May 20, 2026

Dpr

Whether speaking/reasoned

Whether reportable

(Pankaj Jain)

Judge

: Yes/No

: Yes/No