

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****214****FAO-4054-2013(O&M)****Date of decision: 27.04.2026****Baljinder Singh****...Appellant(s)****Vs.****The Oriental Insurance Company Ltd. & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. B.S. Walia, Advocate
Mr. Deep Inder Singh Walia, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate
for respondent No.1.

*********NIDHI GUPTA, J.****CM-16401-CII-2013**

This is an application under Section 5 of Limitation Act for condonation of delay of 131 days in filing the appeal.

It is mentioned in Para 2 of the present application that:-

"2. That the appellant was never served in aforesaid claim petition no. No.RT-1 of 17.04.2008 filed by the claimants. The perusal of copy of Award and various interim orders clearly establishes that the wrong address of the appellant has been mentioned in the claim petition and no proper service has been effected upon the appellant. Rather when the claimants failed to serve the appellant, they chose a novel method by playing a fraud upon the appellant to produce Smt. Poonak Madaan, Advocate by filing a power of attorney by forging the signatures



of the appellant and appeared only for one date. The appellant is totally illiterate and does not know how to sign. The thumb impression of appellant in his saving bank record of HDFC and on ration card also proves this fact. Besides this, it is relevant to mention that the appellant has already sold the aforesaid truck to Jagir Singh son of Harnek Singh.”

The above cited reason does not constitute sufficient cause to condone extraordinary delay of 131 days in filing the present appeal. The Tribunal has categorically observed in the impugned Award that appellant was served in accordance with law. As such, the sole reason cited by the appellant is not sufficient ground to condone delay of 131 days in filing the appeal. It is cardinal principle of law that delay of each day has to be explained. In this regard, reliance may also be placed upon recent judgment of Hon’ble Supreme Court in **“Shivamma (Dead) by LRs Vs. Karnataka Housing Board & Others” Civil Appeal No.11794 of 2025 decided on 12.09.2025**. As such, no ground is made out for condoning inordinate delay of 131 days. Present application accordingly stands **dismissed**.

CM-16403-CII-2013

This is an application under Order 41 Rule 27 CPC for leading additional evidence.

After going through the contents of the application, which is supported by affidavit of the appellant, the same is allowed subject to all just exceptions; and documents Annexure A1 to Annexure A5 are taken on record.

**MAIN CASE**

Present appeal has been filed by the owner of truck bearing registration No.PB-11-J-3576 (hereinafter 'the offending vehicle'), laying challenge to the Award dated 26.10.2012 passed by Motor Accident Claims Tribunal, SAS Nagar, Mohali (hereinafter 'the learned Tribunal') whereby Claim Petition No.RT-1 dated 17.04.2008 filed by the claimants/respondents No.3 to 8 herein, under Section 166 of Motor Vehicles Act (hereinafter "the Act"), has been allowed; and compensation of Rs.7,05,000/- has been awarded to them along with interest @ 9% per annum. The 6 claimants are the 26-year-old widow, 7-year-old daughter, 5-year-old son, 46-year-old mother, 17-year-old brother and 12-year-old brother of deceased Sanjay Kumar, who was 26 years old at time accident.

2. Upon appraisal of pleadings and oral & documentary evidence adduced by the parties, the learned Tribunal concluded that deceased Sanjay Kumar had died due to the injuries suffered by him in a motor vehicle accident that took place on 08.03.2008 due to the rash and negligent driving of truck bearing registration No.PB-11-J-3576 (referred to herein as "the offending vehicle") being driven by respondent No.2, owned by the appellant, and insured by respondent No.1. The appellant and respondent No.2/driver were proceeded against ex parte as they failed to put an appearance despite Service. Recovery rights were given to the Insurance Company/respondent No.1 against the appellant and the respondent No.2



on the ground that respondent No.2 did not possess a valid Driving Licence on the date of accident.

3. Learned counsel for the appellant inter alia submits that the learned Tribunal was in patent error in granting recovery rights to the respondent No.1 against the appellant and the respondent No.2 on the ground that respondent No.2 did not possess valid Driving Licence at the time of accident. It is contended that the said finding of the Tribunal is against the evidence on record. The learned Tribunal committed a grave error while deciding issue No.3 by giving recovery of rights, the amount of compensation from the owner/driver of the offending truck. Although the Insurance Company has taken a plea in the Written Statement that the driver not having a valid Driving License. However, the onus which lies on the Insurance Company has not discharged inasmuch as it has not produced any record, any evidence to show that the driver was not having valid Driving License. The learned Tribunal also mentioned in para No.8 that no evidence in rebuttal was led by the Insurance Company. Although the learned Tribunal categorically observed that respondents No.1 and 2 have been proceeded against ex parte and in their evidence it cannot be automatically presumed that the driver was not having valid Driving License at the time of accident. When the learned Tribunal has come to a definite conclusion that although the Insurance Company has taken a plea in their Written Statement with regard to not having a valid Driving License



although it did not lead any evidence in rebuttal either oral or documentary to the effect that the Driving License of the driver is not valid. Thus, the finding of the learned Tribunal that the Insurance Company would also have a right to recover the amount of compensation from the driver/owner of the offending truck is not sustainable. Since the appellant has not been served till today and his appearance has been procured by the claimants by way of fraud as such the aforesaid finding is totally wrong and illegal. As soon as the appellant has come to know about the aforesaid Award, he procured the copy of the Driving License of the driver from the District Transport Office, Patiala. The Licensing Authority vide its letter dated 23.04.2013 (A2) authenticated the valid Driving License of the driver.

4. It is further submitted that the aforesaid facts clearly show that the presence of the appellant has been procured by forging a Vakalatnama for one date by way of producing Smt. Poonak Madaan, Advocate on behalf of the appellant and thereafter she did not appear and the appellant was proceeded ex parte. It is apparent on the record that the aforesaid presence of the appellant has been procured by way of fraud as the claimants failed to mention the correct address of the appellant. The Claim Petition has been filed on 17.04.2008 and the orders dated 18.08.2009, 08.10.2010, 18.10.2010, 01.04.2011 and 05.12.2011 will show that the appellant was never served because he was not residing on the address given by the respondents.



5. Moreover, the appellant has already sold the aforesaid truck bearing No. PB-11-J-3576 to one Jagir Singh son of Harnek Singh, village Rohti Basta Singh, Tehsil Nabha, District Patiala. The aforesaid truck is in possession of aforesaid vendee and he must have taken the same on Supardari from the learned Court. It has come to the knowledge of the appellant that the Insurance Company has paid the entire amount to the claimants and they are bent upon to initiate the execution proceedings to recover the amount from the appellant. The appellant is not claiming any relief against the claimants with regard to entitlement of compensation except the fraud played upon the appellant by them by producing and filing forged Power of Attorney through Smt. Poonak Madaan, Advocate.

6. It is accordingly prayed that *“the Award dated 26.10.2012 passed by the Ld. Tribunal, SAS Nagar, Mohali is against law and facts and the same is liable to be modified while allowing the present appeal, in the interest of justice or any other relief which this Hon’ble Court deems fit in the present facts and circumstances of the case.”*

7. Per contra, learned counsel for the respondent No.1/Insurance Company opposes the submissions advanced on behalf of the appellant and submits that the appellant has not even placed on record the photocopy of the alleged Driving Licence and letter from the District Transport Officer. Only typed copies of the documents (Annexure A1 to A5) have been brought on record by the appellant. Therefore, the said evidence cannot be of any help



to the appellant as the same is not produced in accordance with law. Learned counsel further prays that the impugned Award suffers from no error; and the present appeal deserves to be dismissed.

8. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellant.

9. It has firstly been contended on part of the appellant that the appellant was not served before the learned Tribunal as Claimants had deliberately not given the correct address of the appellant. However, the Tribunal has categorically recorded in Para 4 of the impugned Award that:-

“4. Respondent no.1 and 2 despite having been served failed to put in appearance and were proceeded against exparte.. ...”

10. Nothing to the contrary has been shown by learned counsel for the appellant to prove that appellant was not served in accordance with law. Except for bald statement, no conclusive proof has been brought on record by the appellant. In fact, even no proof of address has been produced by the appellant before this Court to prove that the address borne on the Memo of Parties of the Award/Claim Petition is incorrect; and that appellant was served at the wrong address.

11. The appellant has only appended Annexure A5/T which is the Ration Card issued by the Inspector, Food and Civil Supplies and Consumer on dated 23.09.2011, whereby the appellant is shown to be resident of



Gadhsi Patti, Samana. However, the said Ration Card has been issued much after the filing of the Claim Petition on 17.04.2008. Therefore, the appellant has not produced any proof of residence on the relevant date. At best, it can be taken that it is only from 2011 onwards that the appellant is resident of village Gadhsi Patti.

12. Furthermore, as per the Ration Card, the appellant is shown to be resident of Gadhsi Patti, Samana; whereas in the Memo of Parties of the present appeal, the appellant has shown himself to be resident of Village Samana, District Patiala. Appellant is unable to explain the said discrepancy. Thus, from the above facts, it cannot be said that the appellant was not served in accordance with law. Consequently, no valid ground is made out for non-appearance of the appellant before the Tribunal.

13. It has next been contended by the appellant that as per the impugned Award the respondent No.1/Insurance Company has been wrongly granted recovery rights against the appellant as respondent No.2 was holding a valid Driving Licence on the date of accident. However, no valid Licence was produced by them before the Tribunal. Before this Court, the appellant has sought to bring on record Driving Licence of respondent No.2 by way of additional evidence as Annexure A1. However, as rightly pointed out by learned counsel for the respondent No.1, let alone the original, not even the photocopy of the said Driving Licence has been appended by the appellant along with the present appeal. Only a typed



copy has been attached. Needless to say, no reliance can be placed upon such a document.

14. Furthermore, a perusal of Annexure A1 shows that the said Driving Licence was first issued on 04.10.2006 authorising respondent No.2 to drive only a Light Motor Vehicle. Subsequently, additional vehicles i.e. motorcycle with gear, HTV were included only on 07.03.2008 i.e. one day prior to the accident. This, in itself, casts shadow of doubt on the authenticity of alleged driving license, as the respondent no.2 has been authorised to drive HTV i.e. the offending vehicle/truck only one day prior to the accident.

15. Another glaring discrepancy in the said Licence is that the transport validity of the said additional vehicles is shown to be from 04.10.2006 to 03.10.2009. On a Court query, learned counsel for the appellant is unable to explain the said discrepancy. Learned counsel for the appellant is also unable to give any reason whatsoever for not producing the original and/or at least attaching the photocopy of the original Licence of the respondent No.2 along with the present appeal. Consequentially, the appellant has miserably failed to prove that on the date of accident i.e. 08.03.2008, the respondent No.2 possessed a valid Driving Licence authorising him to drive the HTV.

16. The contention of the appellant that onus was on the Insurance Company to prove that driving license of respondent no.2 is not



valid, is entirely misconceived. Reverse Onus/negative evidence cannot be led by the insurance company.

17. Further, Annexure A2 is a Memo No.3810 dated 23.04.2013 ostensibly issued by the District Transport Officer, Patiala, Punjab, Nabha, Punjab, whereby it has been certified as follows: -

“This is to certify that as per record maintained in this office, the driving licence no.PB:11/4049/NDL/ 06-07 (PB-1120060085990) has been issued on 7.3.2008 in the name of Joginder Singh son of Kartar Singh, R/o Daludhi Gate, Nabha, District Patiala, Punjab, India for driving M Cycle/LMV/HTV only. Date of birth of driving license holder is 14.5.1963 as per our office record. The driving license is valid upto (Non transport validity 13.05.2013) and Transport validity (3.10.2009) as per office record.”

18. However, again, even a photocopy of the said original letter is not attached with the present appeal and only typed copy thereof has been appended herein as Annexure A2 by way of additional evidence. It is reiterated that this Court finds it very odd that permission to drive Heavy Transport Vehicle was gained to the respondent No.2 only one day prior to the accident i.e. 07.03.2008. No sufficient reason has been given by the appellant in not producing the said documents before the learned Tribunal.

19. The last contention of the appellant to the effect that fraud was played upon the appellant by the claimants by putting in appearance of an unauthorised Advocate on behalf of the appellant and forging



signatures of the appellant on the Power of Attorney, are totally unsubstantiated. In any event, even assuming such a fraud was played by the claimants upon the appellant, the appellant has been unable to show as to what prejudice was caused to him by the said alleged fraud; as admittedly, the appellant was proceeded against ex parte by the Tribunal.

20. Contention of the appellant that the appellant has already sold the offending vehicle to one Jagir Singh also remained unsubstantiated as no details thereof have been given by the appellant. Despite repeated Court queries, the appellant has not furnished any information in this regard and is unable to inform as to on what date was the offending vehicle ostensibly sold to said Jagir Singh. In any event, the legal position in this regard is very clear - to the effect that it is the registered owner of the offending vehicle who is liable to pay the compensation amount. Nothing has been shown by the appellant that on the date of accident i.e. 08.03.2008, the appellant was not the registered owner of the offending vehicle.

21. Learned counsel for the appellant is unable to dispute or controvert the aforesaid facts and findings.

22. In view of the above, present appeal stands **dismissed**.

23. Pending application(s) if any also stand(s) disposed of.

27.04.2026
Sunena

(Nidhi Gupta)
Judge

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