

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No.24699/2020

(Arising out of impugned final judgment and order dated 22-11-2019 in FAO No. 3349/2016 passed by the High Court of Punjab & Haryana at Chandigarh)

UNITED INDIA INSURANCE CO. LTD.

Petitioner(s)

VERSUS

M/S GAWAR CONSTRUCTION LIMITED & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.34916/2021-CONDONATION OF DELAY IN FILING and IA No.34917/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 13-07-2021 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE HEMANT GUPTA

For Petitioner(s) Mr. A.K. De, Adv.
Ms. Ananya De, Adv.
Mr. Zahid Ali, Adv.
Mr. Pramit Saxena, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Application seeking exemption from filing C/C of the impugned judgment is allowed.

Learned counsel for the petitioner/insurance company submits that the findings recorded by the order of the MACT dated 03.09.2015 records that the petitioner sought production of the valid route permit and fitness certificate for the offending

truck but that was not produced and that is why an adverse finding was reached as set out on Issue No.3 at page No.33-34.

He submits that this issue was dealt with by the High Court on page No.5 in the last paragraph stating that non-possessing of route permit and fitness certificate is not a defence available to the insurer under Section 149(2) of the MACT Act.

Learned counsel refers to Section 149(2)(c) to submit that if the vehicle is used as a transport vehicle for purpose not allowed by the permit, the same can be taken as a defence by the insurer.

He submits that limited plea raised in this petition is for leave to the petitioner to recover the amount from the owner of the vehicle.

Issue notice limited to respondent No.1/Owner returnable in six weeks.

It is, however, made clear that the insurance company must remit the amount determined to the beneficiary respondent Nos.2 to 6, if not already paid.

A copy of the order to accompany notice.

[RASHMI DHYANI]
COURT MASTER

[POONAM VAID]
COURT MASTER (NSH)