

**Reliance Gen. Insurance Co v. Santosh Kumar a/w connected matters**

**FAO No. 41 of 2020 a/w FAO Nos. 405, 406, 407, 451, 471 of 2018, FAO Nos. 47, 239 of 2019 and FAO No. 258 of 2021**

**12.5.2023** Present: Mr. Karan Vir Singh, Advocate, for the appellant(s) in all the appeals except FAO No. 47 of 2019.  
Ms. Dhanvanti, Advocate, for the appellant in FAO No. 47 of 2019  
Mr. Romesh Verma, Senior Advocate with Mr. Hitesh Thakur, Advocate, for the respective respondents in FAO No. 41, 2020, 405, 406, 407, 407, 2(i), 2(ii) and 2 (vii) in FAO No. 451, 4(c) and 4 (d) in FAO No. 471 of 2018 and FAO No. 258 of 2021.  
Mr. Bhupinder Pathania, Advocate, for respondent No.3 in FAO No. 47 of 2019.  
Mr. Tejasvi Verma, Advocate, for the respondents in FAO No. 239 of 2019.

**CMP(M) Nos. 1352 & 1353 of 2022 in FAO No. 451 of 2018**

By way of instant applications filed under Order 22 Rules 4 and 9 of CPC and Section 5 of the Limitation Act, prayer has been made on behalf of the applicant/appellant, for bringing on record the LRs of deceased respondent No.2 Manohar Dass, after condonation of delay in maintaining the accompanying application and setting aside abatement, if any.

In terms of notices issued vide order 31.3.2023 in the aforesaid CMPs, though all the proposed LRs stand served, but only respondents No. 2(i), 2(ii) and 2(vii) have chosen to be represented before this Court, whereas despite service, none has come present on behalf of the proposed LRs No. 2 (iii) to 2 (vi) and they are proceeded *ex-parte* in the instant applications.

Having carefully perused averments contained in the application bearing CMP(M) No. 1352 of 2022, which is duly supported by an affidavit, this court finds that delay in bringing on record the LRs of deceased respondent No.2 is neither intentional nor willful, rather same has occurred on account of circumstances, which were completely beyond the control of the

applicant and as such, same deserves to be condoned. Accordingly, for the reasons stated in the application, delay, if any, in bringing on record the LRs of deceased respondent No.2 is condoned. Abatement, if any, is also set-aside.

Careful perusal of averments contained in the application bearing CMP(M) No. 1352 of 2022 reveals that respondent No.2 Manohar Dass has expired on 29.9.2021, leaving behind LRs as detailed in para-2 of the application. Since right to sue survives in favour of the persons proposed to be substituted in place of deceased respondent No.2, there appears to be no impediment in accepting the prayer made in the application and accordingly, same is allowed and persons detailed in para-2 of the application are ordered to be substituted in place of deceased respondent No.2, whose name otherwise is ordered to be deleted from the array of parties. Registry to carry out necessary correction in the memo of parties on the basis of amended memo of parties annexed with the application. Application stands disposed of.

**FAO No. 451 of 2018**

Notices to the newly added respondents i.e. respondents No. 2 (iii) to 2 (vi) be issued returnable within four weeks, on taking steps within one week. No notice is required to be issued to respondents No. 2(i), 2(ii) and 2(vii) as Mr. Hitesh Thakur, Advocate, has definite instructions to appear on their behalf.

**May 12, 2023**  
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**(Sandeep Sharma),  
Judge**