

9Sl. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			AO No.290 of 2015 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Pulak Agarwal, Advocate, for the appellant. Mr. Devesh Upreti, Advocate, for the respondent nos.1 and 2. The Motor Accident Claim Petition No.22 of 2013, "Devendra Mehta and another Vs. Kheem Singh Mehta and another", stood adjudicated on merits by the judgment dated 11.06.2014, whereby determining the liability of compensation to be made payable to the tune of Rs.42,04,800/-. The learned Motor Accident Claims Tribunal while rendering the judgment of 11.06.2014, had observed as under:- “विपक्षी सं०-2 बीमा कंपनी की ओर से, सम्मन का तामीला पर्याप्त होने के बावजूद भी, अधिकरण में कोई उपस्थित नहीं आया, जिस कारण दिनांक: 04-03-2014 को उसके विरुद्ध वाद की कार्यवाही एक पक्षीय रूप से अग्रसारित की गई।” It means, that despite of the service of notice, the appellant, herein, have not put in appearance. Consequently, the matter proceeded <i>ex parte</i> against them by an order dated 04.03.2014. It's after rendering of the award dated 11.06.2014, at a highly belated stage, that the appellants, who were the opposite party no.2, to the proceedings before the learned Motor Accident Claims Tribunal had preferred an application under Order 9 Rule 13 to be read with section 151 of CPC, seeking to set aside the so called <i>ex parte</i> award dated 11.06.2014. The said application accompanied with the delay condonation application seeking condonation of the delay, which has chanced in filing the restoration on 09.02.2015. The same has been rejected by the impugned order dated 26.03.2015.

			The learned Motor Accident Claims Tribunal has rightly observed that the reasons of the absence as depicted in the application for recall for absence, could not be accepted for the reason being that the Company was impleaded in the proceedings by the principal name of the company, with its head office shown to be at Delhi, and merely, because there was a minor change in the office, that in itself may not have any bearing as such because inter departmental communications are quite prevalent in the private insurance companies, who are expected to have communicated about the notice, and pending proceedings. But still taking a pragmatic view so that the <i>lis</i> can be decided on its own merit, it is consented by the parties, that the appeal from order may be disposed of. The impugned order dated 26.03.2015, rejecting the delay condonation application would stand quashed. The matter is remitted back to the learned Motor Accident Claims Tribunal, to decide the matter afresh within a period of six months from the date of the receipt of the certified copy of the order. The interim awarded amount, which has already been remitted to the claimants in pursuance to the orders passed by this Court on 28.05.2015, and consequential withdrawal on 02.12.2020, would abide by the final decision to be taken by the Motor Accident Claims Tribunal. (Sharad Kumar Sharma, J.) 07.12.2023 NR
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