

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

**CR No. 5144 of 2012 (O&M)**

Date of decision : 17.3.2015

Kawaljeet Singh and another

.. Petitioners

versus

Devinder Singh and others

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal**

Present: Mr. Ashish Gupta, Advocate, for the petitioners.  
Mr. Lakhwinder Singh, Advocate for  
Mr. P. S. Dhaliwal, Advocate, for respondent nos. 1 and 2.  
Mr. Lalit Garg, Advocate, for respondent no. 3.

**Rajesh Bindal, J.**

Challenge in the present petition is to the order dated 27.8.2011 (Annexure P-3) passed by the Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal'), vide which the application filed by the predecessor-in-interest of the petitioners for restoration of the claim petition, which was dismissed in default vide order dated 9.9.2008 (Annexure P-1), was dismissed.

In the case in hand, Raja Singh, predecessor-in-interest of the petitioners filed a claim petition with the allegations that he suffered injuries in a motor accident. On account of non-appearance of the claimant or his counsel, despite number of opportunities, the claim petition was dismissed in default on 9.9.2008. The application for restoration of the claim petition was filed on 12.5.2010. Claimant Raja Singh died during the pendency of the application for restoration. The same was dismissed on 27.8.2011 as no ground was made out for restoration. The order has been impugned in the present petition.

Learned counsel for the petitioners submitted that the claimant could not appear in Court as his counsel informed him that there is no need to be present in Court on each and every date of hearing and he will inform him as and when his presence is required. Even the dismissal of the petition was not informed. Unfortunately, the counsel died in a road accident. Thereafter, on enquiry it was found that the claim petition has already been

dismissed on 9.9.2008. After getting the certified copy of the order, immediately the application for restoration of the claim petition was filed. Under these circumstances, the predecessor-in-interest of the petitioners, who suffered injuries in the accident, should not be made to suffer.

After hearing learned counsel for the parties, I do not find any reason to interfere with the order passed by the Tribunal. The claim petition was filed on 14.9.2005 with the allegations that Raja Singh (deceased) suffered injuries in an accident. The same was dismissed in default on 9.9.2008. It is sought to be claimed that the counsel engaged by the claimant did not inform him about the date of hearing or the dismissal of the petition in default. However, it is pleaded by the petitioners in the grounds of revision that the counsel engaged by Raja Singh (deceased) was his neighbour. Counsel engaged by the claimant died on 13.4.2010. The application for restoration of the petition was filed on 12.5.2010 after more than 18 months of the dismissal thereof in default. It has been noticed by the learned Tribunal while dismissing the application for restoration that after issues were framed on 17.1.2006, the case was adjourned on ten dates of hearings, but the claimant did not appear for leading evidence. It was only on 5.11.2007 that the wife of the claimant appeared in Court and filed her affidavit in evidence. The case was adjourned to 13.12.2007 for her cross-examination, but she did not appear. Thereafter, again the case was adjourned on seven dates of hearing but no evidence was led. Finally on 9.9.2008, as neither the claimant nor his counsel appeared, the claim petition was dismissed for non-prosecution. The injuries suffered by Raja Singh (deceased) were abrasions. Considering the facts and circumstances of the case where despite numerous opportunities, no evidence was led by the claimant, in my opinion, no illegality has been committed by the Tribunal, firstly in dismissing the claim petition in default and subsequently by dismissing the application for restoration thereof.

The petition is accordingly dismissed.

17.3.2015  
vs

( Rajesh Bindal )  
Judge