

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

FAO No.365 of 1992 (O&M)

Date of decision: 27.11.2015

Ram Singh

... Appellant

versus

Singhal Transport Corporation & others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr.Ajay Jain, Advocate for the appellant.

Mr. Ram Pal Verma, Advocate for respondents No.1 and 2.

K.Kannan, J.(Oral)

The appeal was originally brought at the instance of claimant who had suffered injuries resulting in fracture of tibia and knee joint and had caused permanent disability. He was said to be a co-driver with the person, who was actually driving the vehicle. The vehicle dashed against a culvert on account of a mechanical defect in the vehicle. But the court declined the plea of the claimant that he was a co driver and dismissed the claim against the Insurance Company that the policy coverage did not allow for making a claim for an injured as traveller in goods carriage. The accident had taken place in the year 1988 and the appeal has been pending ever since it was instituted in the year 1992.

During the pendency of appeal on 2.7.2013, the claimant had died and his LRs had been added to pursue the appeal. The appeal itself is incompetent for a claimant whose claim had been dismissed arising out of the personal injury does not survive to a legal representative in terms of Section 306 of Indian Succession Act. Section which marks an exception to the old maxim *Actio personalis moritur cum persona* is modified only in cases where injuries result in death. Actions for defamation, assault as defined in IPC or personal injuries not causing death of the party do not survive for a legal representative to pursue, as per the express provision of the section. By no stretch of imagination it could be stated that injury caused in the year 1988 was the cause of death 25 years later in 2013. There is no proximity of death to the accident injury and the appeal ought to be taken as having abated.

The appeal is dismissed as such.

(K.KANNAN)
JUDGE

27.11.2015
Meenu