

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4968 of 2009
Date of Decision : 18.12.2015

Hakummudin

....Appellant

Versus

Ash Mohd. @ Ashu and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Shiva Khurmi, Advocate
for Mr. Sarfraj Hussain, Advocate
for the appellant.

Mr. Bhisham Kumar, Advocate
for respondent no. 1.

Mr. Sukhdeep S. Sandhu, Advocate
for Mr. Harsh Manuja, Advocate
for respondents no. 2 to 5.

Surinder Gupta, J.

Heard.

The claim petition filed by the appellant was dismissed vide order dated 16.01.2009, which reads as follows:-

*“No PW is present. Adjournment is requested.
Ld. Counsel for petitioner submitted that the petitioner could not appear as he is ill, but no medical certificate to that effect has been produced. Therefore, I find no ground to adjourn the case. Today was the 3^d and last opportunity. Therefore, evidence of the petitioner is closed by court order. Since there is no evidence on the file, petition is dismissed, leaving the parties to bear their own costs.”*

As is apparent from the order that counsel for claimant had sought adjournment on the ground that claimant was ill but the Tribunal closed the evidence keeping in view the fact that it was third and last opportunity for the claimant to produce evidence and dismissed the claim petition.

The provisions of filing petition claiming compensation for the injuries/death in a motor accident have been incorporated in the Motor Vehicle Act as beneficial legislation for the victim/dependents of the deceased. The Tribunals are required to be cautious of this fact and instead of closing the evidence and dismissing the claim petition in a hurry as in this case, give adequate opportunity to the claimant to produce the evidence. The duty is cast upon the Tribunal to collect the record relating to accident and then decide the case. Reference in this regard can be made to the observations of the Apex Court in case of **Ningamma and another vs. United India Insurance Co. Ltd., 2009 (13) SCC 710**. In that case, the Apex Court had remanded the matter to consider the grant of just compensation under Section 166 of the Motor Vehicles Act even if it is found that provisions of Section 163-A of the Motor Vehicles Act were not applicable to facts and circumstances of the case. While remanding the case, it was observed by the Apex Court that the Motor Vehicles Act is beneficial and welfare legislation and the Court is duty bound and entitled to award just compensation irrespective of the fact whether any plea in that behalf was raised by the claimant or not. The implication of the above observations are quite comprehensive.

In view of above, this appeal is accepted and claim petition is remanded to the Tribunal for fresh decision in accordance with law. The parties are directed to appear before the Tribunal on 04.02.2016. The file be sent to District Judge, Gurgaon, who will entrust the same to competent Court for decision.

December 18, 2015
jk

(SURINDER GUPTA)
JUDGE