

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4072 of 2010 (O&M)
Date of Decision:27.01.2015

New India Assurance Company Ltd.

....Appellant

Versus

Miss Sanjeet and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Rakesh K. Sharma, Advocate for the appellant.

Mr. Kanwal Goyal, Advocate for respondents No.1 to 5.

Mr. Anmol Malik, AAG, Haryana for respondent No.6.

NAVITA SINGH, J.

1. The appeal was filed by the Insurance Company against the order passed by the Commissioner under the Workmen's Compensation Act, Panipat (Commissioner for short) on 12.4.2010, awarding a compensation of Rs.6,08,525/-.

2. The main ground taken in appeal is that despite observing that a claim had already been preferred regarding the same accident before Motor Accident Claims Tribunal, Panipat (Tribunal for short), the claim petition was allowed. It was observed in the impugned order that the claimants had filed an affidavit that they would not receive the amount awarded by the Tribunal and would accept the award of the Commissioner.

3. It may not be out of place to mention here that the Tribunal had not passed any award by the time order was passed by the Commissioner and the proceedings were pending. That award was passed in November 2010 and even after passing of the impugned order, the claim petition before the Tribunal was not withdrawn.

4. Be that as it may, it was rightly argued by counsel for the appellant that once claim before the Tribunal had been preferred and proceedings were pending, another application before the Commissioner could not have been filed.

5. Counsel for respondents No.1 to 5 kept harping on one tune that the claimants i.e. respondents No.1 to 5, had undertaken before the Commissioner not to accept the amount under the award of the Tribunal. However, he could not say as to under which provision of law, the claimant could maintain both the claims simultaneously. The petition before the Tribunal was earlier in point of time, which was filed in 2003 and, therefore, subsequent claim before the Commissioner could not be maintained.

6. Counsel for the appellant relied on the case reported as National Insurance Company Ltd. Vs. Parveen and others 2000 ACJ 1354. However, the matter was decided by Single Bench of this Court. The view is not binding but is subscribed to.

7. The appeal is allowed. The impugned order is set aside dismissing the claim petition filed by respondents No.1 to 5 before the Commissioner.

(NAVITA SINGH)
JUDGE

27.01.2015

Ishwar

Whether to be referred to reporter: Yes