

**CM-10126-CII-2013 in/and
FAO-2145-2013 (O&M)**

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

**CM-10126-CII-2013 in/and
FAO-2145-2013 (O&M)**

Date of Decision: July 23, 2015

SACHIN KUMAR DHAMIJA AND ANR

....APPELLANTS

VS

SUNDER LAL AND ORS

.....RESPONDENTS

CORAM: HON'BLE MR.JUSTICE NARESH KUMAR SANGHI

Present: Mr. R.S. Mamli, Advocate for the appellants.

Mr. Narender Pal, Advocate for respondent No.1.

Mr. Vinod Chaudhari, Advocate for respondent No.2.

Service of respondent Nos. 3 and 4 dispensed with
vide order dated 22.01.2015.

Mr. Suvir Diwan, Advocate for respondent No.5.

- 1. Whether Reporters of local papers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the digest?*

Naresh Kumar Sanghi, J. (Oral)

CM-10126-CII-2013

After hearing learned counsel for the parties and going
the contents of the application, which is duly supported by an
affidavit, delay of 4284 days in filing the appeal is hereby condoned.

CM disposed of.

CM-10127-10128-2013

Learned counsel for the applicant-appellants does not press these applications.

Disposed of as not pressed.

FAO-2145-2013

Vide Award dated 12.03.2001, learned Motor Accidents Claims Tribunal, Kurukshetra, (for brevity, 'the Tribunal') had decided MACT Case No.32 of 1997, MACT Case No.30 of 1998 and MACT Case No.31 of 1998. FAO Nos.1754 and 3685 of 2001 were filed before this Court challenging the Award, dated 12.03.2001 passed by the learned Tribunal. Vide order, dated 22.05.2012, this Court set aside the Award passed by the learned Tribunal and remitted the matter to the learned Tribunal for passing a fresh Award after affording sufficient opportunities to lead evidence to respondent Nos.1 and 2 in the claim petition. FAO-3685-2001 presented by the appellant-claimants for enhancement of the awarded amount was also dismissed at that stage, with a liberty to file fresh one after the decision of the learned Tribunal.

During the hearing, it was pointed out that vide Award dated 04.01.2013, the learned Tribunal upheld the Award dated 12.03.2001 passed by the learned Tribunal. The operative part of the Award dated 04.01.2013 is as under:-

“ In the circumstances of the case, the Award

which was passed by this Tribunal before the order of remand by the Hon'ble High Court would hold good and there is no necessity of repeating the writing of the same Award again as there is nothing new before this Tribunal as what was available as evidence before this Tribunal when Award dated 12.03.2001 was passed, the same is the position today. As far as Mark R1 driving licence is concerned that could not be proved fake and thus the position is same. In the circumstances of the case, file be consigned to the record room after due compliance."

The learned counsel for the parties are *ad idem* that the procedure adopted by the learned Tribunal while passing the Award dated 04.01.2013 is absolutely contrary to the spirit of the order dated 22.05.2012, passed by this Court. In fact this Court had set aside the Award dated 12.03.2001 and thereafter remitted the matter to the learned Tribunal for passing a fresh Award, which has not been done. The learned Tribunal vide its Award dated 04.01.2013 had no authority to uphold the Award dated 12.03.2001. In other words, learned counsel for the parties were of the opinion that the Award, dated 04.01.2013, is no Award in the eyes of law.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

The submissions put forth by the learned counsel for the parties appear to be correct. Once this Court vide its order dated

22.05.2012 had set aside the Award dated 12.03.2001 and directed the learned Tribunal to pass a fresh Award, in that eventuality, learned Tribunal vide its order dated 04.01.2013 could not uphold the previous Award, dated 12.03.2001. If the order dated 04.01.2013 is sustained, then it would create a lot of confusion not only for the claimants but for the respondents as well.

In view what has been discussed above, the Award, dated 04.01.2013, is set aside and the matter is remitted to the learned Tribunal for passing a fresh Award in the spirit of the order dated 22.05.2012 passed by this Court.

Since the claimants are running from one Court to another for the last more than 15 years, therefore, it is expected that learned Tribunal shall decide the issue within six months of receiving of a certified copy of this order.

The parties to the *lis* shall remain present before learned Tribunal on 14.08.2015 at 10.00 a.m. for further proceedings.

It is made clear that in view of the opportunities already afforded to the respondents for leading evidence, the learned Tribunal may take independent decision in that regard.

**(NARESH KUMAR SANGHI)
JUDGE**

July 23, 2015
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