

**1. FAO No.1333 of 2015 (O&M)
Date of Decision: April 28, 2015**

.. Appellant

VS.

.. Respondents

**2. FAO No.1518 of 2015 (O&M)
Date of Decision: April 28, 2015**

.. Appellant

VS.

.. Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Nitin Goyal, Advocate for
Mr. Sanjiv Gupta, Advocate for the appellant.

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.

By this order of mine, I will dispose of two connected FAO Nos.1333 and 1518 of 2015, arising out of the orders of even date i.e. 26.11.2014 passed by Motor Accident Claims Tribunal, Karnal (in short 'the Tribunal'), vide which the applications filed by the present appellant for setting aside the ex parte order dated 09.12.2010 and

the ex parte judgment and decree dated 18.04.2011 passed in two petitions titled as Mansi Devi vs. Jagdish Chander and another and Sona Devi vs Jagdish Chander and another, were dismissed.

FAO No.1518 of 2015 titled as “Jagdish Chander vs Sona Devi and another” has been ordered to be listed along with the present appeal vide order dated 31.03.2015.

Brief facts of the case are that Jagdish Chander, appellant is the owner-cum-driver of the car bearing registration No.HR-05L-1525. In the aforesaid claim petitions, appellant Jagdish Chander had put in appearance in person on 25.08.2009. He also filed written statement on 29.10.2009. Thereafter, issues were framed. Appellant Jagdish Chander continued to appear till 30.10.2010. On 09.12.2010, he did not appear and was proceeded against ex parte and ex parte Award was passed on 18.04.2011.

In the applications, he had asserted that his non-appearance on 09.12.2010 was not intentional. It was due to reasons of serious illness of his elder brother Krishan Lal. His brother was having a tumor in the brain and he was attending his brother in PGI, Chandigarh and in other hospitals but his brother died on 18.02.2011. Thereafter, he remained busy in last rites of his brother and other rituals. It was stated that his driving licence was not produced before the Tribunal.

The applications were contested by the Insurance Company on the ground that the applications were not within the

limitation. The appellant was in knowledge of the ex parte order and ex parte Award.

After hearing both the parties on the application, the Tribunal dismissed the aforesaid applications.

I have heard learned counsel for the appellant and have also carefully gone through the case file.

Learned counsel for the appellant has repeated the story of the illness of the brother of the appellant and the absence of the appellant was on the said ground.

It has come out that the appellant had absented himself on 09.12.2010 after his initial appearance on 25.08.2009.

I am of the view that the story put forward by the appellant is not convincing. The appellant had not stated that as to how many family members are there in the family of his brother and whether none of them was able to attend him. There is no mention of the other family members of the appellant whether they were able to attend him or not. It is not possible that only the appellant was to attend his brother. He was appearing in person and if he knew about the pendency of the proceedings, he could have easily engaged a counsel. He thus slipped away from the proceedings on 09.12.2010 and ex parte Award was passed on 18.04.2011. The present applications were filed on 17.10.2011. It cannot be said that the appellant was busy in performing the last rites of his brother for six months. Even if, the entire story is correct, after the last rites

ceremony, which are normally over within 4-5 weeks, he could have easily moved an application. It appears that after the Award was passed, he filed the present applications only when the executions were filed.

I concur with the findings of the Tribunal. Consequently, I do not find any merit in the present appeals and the same are accordingly dismissed.

April 28, 2015
sarita

(KULDIP SINGH)
JUDGE