

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

CR No.6531 of 2016(O&M)

Date of decision:29.9.2016

Tara Chand and anotherPetitioners

VERSUS

Ganesh Dass and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. J.S. Cooner, Advocate for the petitioners.

REKHA MITTAL, J. (Oral)

The present petition has been directed against order dated 27.07.2016 (Annexure P-1) passed by the Motor Accident Claims Tribunal, Ambala (in short 'the Tribunal') whereby the petition for grant of compensation in regard to death of son of the petitioners in a motor vehicular accident has been dismissed against Mandeep Singh, owner of the alleged offending vehicle for want of filing of summon forms, copies etc. despite 3-4 dates granted for the purpose.

Counsel for the petitioners has submitted that in case the impugned order is not set aside qua respondent No.2, the insurance company may also be exonerated of its liability to pay compensation as insurance company has the liability to indemnify the insured. It is further submitted that in case an award is made only against the driver, it may turn out to be a formality without fruition.

I have heard counsel for the petitioner, perused the paper-book particularly the order impugned.

The petitioners appear to be right in their submissions that in case the impugned order is not set aside qua dismissal of claim petition against respondent No.2, it may be of serious consequence in realization of the awarded amount, if ultimately allowed. However, the petitioners have not availed appropriate remedy by filing an application under Order 9 Rule 4 of the Code of Civil Procedure, 1908 (in short 'CPC') seeking restoration of the petition against respondent No.2 that has virtually been dismissed under Order 9 Rule 2 CPC.

In view of the above, the petition stands disposed of with liberty to the petitioners to file an appropriate application before the Tribunal. If such an application is filed, the same would be decided by the Tribunal by taking a lenient and sympathetic view.

SEPTEMBER 29, 2016

'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no