

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

CR No.7611 of 2016

Decided on: 11.11.2016

Mem Lata and others

....Petitioners

Versus

Ashish Aggarwal and another

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Surjeet Singh Sodhi, Advocate for the petitioners.

REKHA MITTAL, J. (Oral)

The present petition has been directed against order dated 04.10.2016 (Annexure P1) passed by the Motor Accidents Claims Tribunal, Mohali whereby application for grant of compensation in respect of death of Ram Gopal has been dismissed against the insurance company for want of filing of copy of the petition.

Counsel for the petitioners has submitted that a serious prejudice shall be caused to the petitioners in case they are not permitted to press their claim against the insurance company with whom the offending vehicle CH03-V-4184 stood insured. It is further argued that the petitioners in the given circumstances, should not be allowed to suffer for some lapse on the part of their counsel failing to file copy of the petition.

I have heard counsel for the petitioners and perused the paperbook particularly the order impugned.

A relevant extract from the order impugned reads as follows:-

“Notice not issued for the service of respondent No.2 as the copy had not been filed. In view of the same,

claim petition qua respondent No.2 stands dismissed. Now for ex parte evidence to come up on 24.10.2016.”

The order does not make reference as to since when the petition was pending for filing of copy of the petition, required for service of respondent No.2 (insurance company). It appears that the learned Tribunal has ignored its obligation to assess just, reasonable and equitable compensation that should actually reach the hands of the victims. In case the petitioners are not allowed to press their claim against the insurance company and eventually an award is passed against owner of the vehicle, it may turn out to be a paper decree or take large time to fructify. In this view of the matter, the impugned order cannot be allowed to sustain and accordingly set-aside.

For the foregoing reasons, the petition is allowed and the impugned order is set-aside with a direction to the Tribunal to proceed with the case against the insurance company, in accordance with law but subject to the condition that the petitioners shall comply with the order of the Tribunal with regard to filing of copy of the petition within a period of 07 days.

11.11.2016
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(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No