

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

FAO No.2139 of 2002 (O&M)
Date of Decision: February 15, 2016

Pala Ram

.....APPELLANT

VERSUS

Santokh Singh and others

.....RESPONDENTS

FAO No.2140 of 2002 (O&M)

Kali Ram

.....APPELLANT

VERSUS

Santokh Singh and others

.....RESPONDENTS

FAO No.2141 of 2002 (O&M)

Ram Bhull

.....APPELLANT

VERSUS

Santokh Singh and others

.....RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. P.S. Rana, Advocate
for the appellant.

Mr. Rohit Goswami, Advocate for
Mr. Ravinder Arora, Advocate
for respondent No.3.

SURINDER GUPTA, J.

1. This judgment shall decide three appeals, FAOs No.2139, 2140 and 2141 of 2002 having arisen out of the common award dated 6th February, 2002 passed by Motor Accident Claims Tribunal, Karnal (later referred as 'Tribunal'). The appellants have filed separate claim petitions under Section 166 of the Motor Vehicles Act, 1988, claiming compensation for the injuries suffered by them on 21st December, 1999, in accident with motor vehicle Bajaj Tempo bearing registration no.HR45-1273 (later referred as 'offending vehicle'). From the perusal of the award, it appears that the claim petitions were filed on 15th March, 2000. The Tribunal closed the evidence of claimants by order on 17th November, 2001 and dismissed the claim petitions vide award dated 6th February, 2002 with the observations that the claimants have not appeared and have not examined any eye-witness of the occurrence to prove that the accident has taken place due to rash and negligent driving of the driver of offending vehicle.

3. Learned counsel for the appellants has argued that the claim petitions were fixed for 16th October, 2001 and the claimants have summoned three witnesses by depositing their diet money. However, the Presiding Officer of the Tribunal was on leave on 16th October, 2001 and the files were taken up on 13th October, 2001 and adjourned for 17th November, 2001 for the same proceedings, for which it was fixed for 16th October, 2001. For 17th November, 2001, two witnesses were got served by the claimants, while the third witness Civil Surgeon Dr. Om Parkash, who was Chairman of the Medical Board, which conducted the examination of claimants to assess their disability, could not be served as he was on leave. The Tribunal closed

the evidence of claimants on 17th November, 2001 and dismissed the claim petitions vide award dated 6th February, 2002. When the witnesses had been summoned by the claimants, the Tribunal instead of closing the evidence by order, should have provided further opportunity, as there was no lapse on the part of the claimants in getting the service of summoned witnesses effected. The case, as such, be remanded to the Tribunal for fresh decision, after affording appropriate opportunities to the claimants.

4. Learned counsel for respondent No.3 has argued that the Tribunal had already allowed four opportunities to the claimants and the perusal of the award shows that none of the claimant had appeared as witness and there is no explanation for their not appearing as witness. The order dated 17th November, 2001 was also not challenged by filing any revision petition, as such, the same has become final.

5. The provisions of Motor Vehicles Act, 1988 enabling the victim of an accident with a motor vehicle to seek compensation, is a social legislation. The very purpose of introducing these provisions in the Motor Vehicles Act, is to help/assist the victims, who are not even required to file a claim petition and the Tribunal on receipt of information of an accident through FIR under Section 158 (6) of the Motor Vehicles Act, has to proceed to determine the compensation. The perusal of the order dated 13th October, 2001, incorporated in para 5 of the grounds of appeal, shows that the case was initially fixed for 16th October, 2001 for the evidence of claimants, but it was adjourned for 17th November, 2001 as the Presiding Officer of the Tribunal was on leave on 16th October, 2001. On 17th November, 2001, two witnesses were present and the third witness was not served, but the Tribunal

instead of taking further steps to call that witnesses or to provide further opportunity to the claimants to examine them, proceeded to close the evidence by order. The strict provisions contained in Civil Procedure Code about the number of opportunities to be given to a party to claim petition to conclude the evidence, are not applicable in the proceedings conducted by the Motor Accident Claims Tribunal, which are otherwise summary in nature. I am of the considered view that a great prejudice has been caused to the claimants by closure of their evidence by order, which has deprived the claimants to produce material evidence before the Tribunal in support of their claim. Even if the claimants have not challenged the order dated 17th November, 2001 by filing a separate revision petition, they have challenged this order in this appeal and the plea to this effect raised in ground of appeal can be looked into in appeal.

6. Learned counsel for respondent No.3 has argued that the claimants have limited their claim only for relief under Section 140 of the Motor Vehicles Act, as is evident from the perusal of para 12 of the award, as such, the Tribunal be directed to consider the claim of the appellants only under Section 140 of the Motor Vehicles Act.

7. The above submission of learned counsel for respondent No.3 has no merits, as this prayer to grant compensation under Section 140 of the Motor Vehicles Act was advanced during the course of arguments by counsel for the appellants as an alternative relief. He had argued that in case the compensation under Section 166 of the Motor Vehicles Act is not allowed, the same may be allowed under Section 140 of the Motor Vehicles Act. This

Motor Vehicles Act. The submissions of learned counsel for respondent No.3 in this regard is discarded.

8. The appeals are accepted. The claim petitions are remanded for fresh decision in accordance with law. Files of these cases be sent back to the District and Sessions Judge, Karnal, who will entrust the cases for decision to the Tribunal having jurisdiction. Parties are directed to appear before Ld. District and Sessions Judge, Karnal on 21st March, 2016.

February 15, 2016.
deepak/jv

(SURINDER GUPTA)
JUDGE