

201.

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

FAO No.196 of 2005 (O&M)

Date of decision: 14.01.2016

Mrs. Saroj Kathuria

... Appellant

versus

Rajesh and others

.... Respondents

II. FAO No.197 of 2005 (O&M)

Lavkesh Kumar

... Appellant

versus

Rajesh and others

.... Respondents

III. FAO No.198 of 2005 (O&M)

Mrs. Sheena

... Appellant

versus

Rajesh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Sandeep Kotla, Advocate,
for the appellant.

Mr. Vinod Gupta, Advocate,
for respondent No.3.

K.Kannan, J. (Oral)

1. The appeals are against the dismissal of petitions where the Tribunal observed that the claimants have not given any evidence. The plaintiff wants opportunity to be given to give such evidence. I am not going to the merits or justification for the

plaintiff not to have given evidence and suffer decrees of dismissal. The Insurance Company is seriously aggrieved that the claimants have not evinced adequate interest and alacrity to bring appropriate evidence before the Tribunal and obtain an adjudication on merits. This has caused a needless delay which must be attributable only to the claimants and if ever there were to be awards, the Insurance Company will be seriously prejudiced in having to be mulcted with unnecessary burden of interest.

2. I find the objection of the insurer to be tenable and even while setting aside the orders of dismissal passed by the Tribunal in the manner of disposal of the cases on merits after giving opportunity to the respective claimants, the Tribunal will consider the conduct of the claimants and their past conduct in not availing to themselves appropriate opportunities to give evidence and factor them to decide if the claimants should have the benefit of interest or in the event of awards being passed.

3. The orders already passed are set aside and the appeals are allowed and remitted to the Tribunal for fresh disposal in accordance with law in the light of observations made above.

4. Parties shall appear before the Tribunal at Hisar on 01.02.2016.

(K.KANNAN)
JUDGE

14.01.2016
sanjeev