

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

FAO No.5273 of 2009 (O&M)

Date of decision: 19.02.2016

Oriental Insurance Co. Ltd.

... Appellant

versus

Krishna Devi and others

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Suvir Dewan, Advocate for the appellant.

Mr. A.K. Singal, Advocate for respondent Nos. 1 to 4.

K.Kannan, J. (ORAL)

The Insurance Company is in appeal to point out that in respect of the very same cause of action, the claimant had filed the case in MACT Case Nos. 131 of 2007 and 137 of 2007. They had been dismissed as withdrawn without taking any liberty for filing a fresh case. The objection regarding any maintainability was rejected by the Tribunal.

Learned counsel appearing for the insurer would refer me to the Haryana Motor Vehicles Rules, 1993 that contained Rule No. 220 that reads as :

The Code of Civil Procedure to apply in certain cases. (Sections 169 and 176(b)- The following provisions of the First Schedule to the code of Civil Procedure, 1908, shall so far as may be apply to

proceeding before the Claims Tribunal namely, Order V Rules 9 to 13 and 15 to 30, Order IX Order XIII, Rules 3 to 10, Order XVI, Rules 2 to 21, Order XVII, Order XXI, and Order XXIII, Rules to 3.

If order 23 is applicable then withdrawal will constitute abandonment of the cause and the fresh objection will be barred under order 23 Rule 1(4) for bringing a fresh objection.

The order already passed allowing for the prosecution of the subsequent case is set aside. The appeal is allowed. It will be open to the claimants to adopt such procedure as it is competent for enforcement of the claim. Any amount deposited by the insurer is directed to be refunded to the insurer.

(K.KANNAN)
JUDGE

19.02.2016

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