

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

FAO No.563 of 2010

Date of Decision: 09.11.2016

Kuldeep Singh and another

... Appellants

Vs.

Charanjit Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Saravpreet Singh, Advocate
for the appellants.

Mr. Vinod Chaudhary, Advocate
for the respondents.

Amol Rattan Singh, J

This appeal was actually taken to be the main appeal, with FAO No.564 of 2010 clubbed alongwith it, and in fact, they were taken up for hearing and judgment was reserved after hearing learned counsel for the parties, on the same date.

However, at the time of hearing it was neither pointed out by either counsel for the parties, nor even noticed by this Court, that as a matter of fact, alongwith both the appeals a single Award of the Motor Accident Claims Tribunal, Rupnagar, dated 18.09.2009, was annexed, which was an Award passed only in MACT Case No.67, instituted on 09.08.2007 before the Tribunal.

It was only when the judgment had been dictated that it was noticed that, as a matter of fact, the Tribunal, vide the impugned Award dated

18.09.2009, had decided only a single claim petition and not two claim petitions and as such, though the same Award has been annexed with both the appeals (i.e. FAOs no.563 and 564 of 2010), the Award annexed was one against which actually FAO No.564 of 2010 was filed by the appellants.

The computer print out supplied by the Registry of this Court, pertaining to the present appeal, i.e. FAO No.563 of 2010, shows that this appeal had been filed impugning MACT Case No.9 of 2007, also decided on 18.09.2009, with at least the 1st appellant and 1st respondent being the same as in the connected appeal, i.e. FAO No.564 of 2010.

2. In fact, both these appeals had been dismissed in default on 19.02.2014 by a co-ordinate Bench, in view of the fact that in the fire that broke out in the record-room of this Court on 30.01.2011, the paper books and records of both the appeals had been burnt, and till 19.02.2014, no reconstructed paper books of these appeals had been supplied by the counsel for the parties and as such, obviously, it was not possible to adjudicate upon the appeals, and it was in fact, not even certain at that stage, whether they had been decided or were still pending, as even the computerised record did not show their status at that point.

3. Thereafter however, reconstructed paper books in both the appeals were supplied to the Court by the learned counsel and consequently, since liberty had already been granted vide the order dated 19.02.2014 itself, that in case the reconstructed paper books are supplied, the appeals be restored, the matter came up for rehearing before another co-ordinate Bench on 08.05.2015, on which date learned counsel for the appellants (different from the counsel appearing on the final date of arguments), had pointed out that the paper book of one case had been supplied in both cases. This fact was

neither noticed by this Court, nor pointed out by learned counsel for the appellants or respondents, on the date of final hearing, as already noticed.

4. Learned counsel for the appellants was also asked to look into the issue and eventually he stated that the factual position is as above and that despite his best efforts he has not been able to obtain a copy of the Award passed by the learned Tribunal in MACT Case No.9 of 2007.

Hence, as regards the present appeal, a copy of the Award passed by the Tribunal in MACT Case No.9 of 2007 not having been annexed with this appeal, obviously no adjudication is possible on the appeal.

Consequently, as the problem has actually arisen due to the fact that the records of the case got burnt in January 2011, this appeal is dismissed in default.

In order to avoid further confusion, it is directed that a copy of this order be also placed on the case file of FAO No.564 of 2010, which has been decided vide a separate judgment of even date.

November 09, 2016
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(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking ? Yes

Whether reportable ? no