

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

FAO No.2097 of 2012 (O&M)

Date of decision : 30.05.2016

Budhi Singh and others

.....Appellant

Versus

Sukhendra alias Billu and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

- 1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
- 2. To be referred to the Reporters or not ? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Present: Mr. Shiv Kumar, Advocate for appellants.

None for respondents No.1& 3.

Respondents No.2 (LRs), 4 to 7 and 9 to 11 already *ex parte*.

Mr. Aseem Aggarwal, Advocate for respondent No.8.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 30.11.2011, passed by the learned Motor Accidents Claims Tribunal, Palwal (hereinafter called the 'Tribunal') vide which the claim petition filed by the appellants-claimants has been dismissed.

2. Learned counsel for the appellants-claimants contended that the evidence of the appellants-claimants was closed by the learned Tribunal

vide order dated 21.04.2011. The said order was assailed by the claimants by filing the civil revision No.7320 of 2011 and they were afforded one clear and effective opportunity to adduce their evidence vide order dated 29.11.2011, but the learned Tribunal dismissed the claim petition vide impugned award dated 30.11.2011 without affording them the opportunity to lead the evidence as per the order passed by this Court. Thus, he contended that the impugned award is illegal.

3. Learned counsel for the Insurance Company cannot dispute the aforesaid factual position.

4. The record of the case shows that the evidence of the appellants-claimants was closed by the learned Tribunal vide order dated 21.04.2011. Claimant Budhi Singh has filed civil revision No.7320 of 2011 to assail the said order. The said revision petition was allowed and this Court directed the learned Tribunal to grant one clear and effective opportunity to the claimants to lead their evidence for which dasti summons may be given, if they so desired, but the learned Tribunal has dismissed the claim petition filed by the appellants-claimants vide order dated 30.11.2011 without affording such opportunity to them as per the direction of this Court.

5. The claimants have even filed an application before the learned Tribunal for grant of opportunity to lead evidence as per the order passed by this Court. The fax copy of the order passed by this Court was also attached with that application, but the learned Tribunal dismissed that application on the ground that the judgment in that case was already

pronounced. Thus, the appellants-claimants were deprived to adduce their evidence as per the order passed by this Court and their claim petition has been dismissed which has resulted in serious miscarriage of justice.

6. Thus, keeping in view my aforesaid discussion, the present appeal is hereby allowed. The impugned award dated 30.11.2011 is hereby set aside. The case is remitted to the learned Tribunal for fresh decision after complying with the order dated 29.11.2011 passed by this Court in civil revision No.7320 of 2011.

7. The parties shall appear before the learned Tribunal on 22.07.2016.

30.05.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**