

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

FAO No.3268 of 2012

Date of decision : 10.11.2016

Pooja (minor) through her father Ramdhari

.....Appellant

Versus

Rajesh Kumar and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Sandeep Goyat, Advocate for appellant.

None for respondents No.1 & 2.

DARSHAN SINGH, J.

The present appeal has been preferred by by the appellant-claimant against the award dated 08.02.2012, passed by learned Motor Accidents Claims Tribunal, Hisar (hereinafter called the “Tribunal”) vide which the claim petition filed by appellant-claimant under Section 166 of the Motor Vehicles Act, 1988 (hereinafter called the “Act”) has been dismissed.

2. I have heard learned counsel for the appellant and have gone through the record of the case carefully.

3. Initiating the arguments, learned counsel for the appellant-claimant contended that the appellant has been non-suited on the ground that she could not produce any evidence. Learned counsel for the appellant contended that the appellant-claimant is a minor girl. She should not be

made to suffer on the technical ground. She has suffered serious injuries in this case.

4. I have duly considered the aforesaid contentions.

5. Appellant Pooja a minor girl has filed the claim petition for grant of compensation on account of the injuries suffered by her. As per the averments in the claim petition, the offending vehicle had run over the right leg of the claimant. She suffered multiple serious and grievous injuries. The learned Tribunal has closed the evidence of the claimant by order on the ground that the claimant could not produce any evidence after availing five effective opportunities and resultantly the claim petition was dismissed.

6. The Act is a beneficial legislation for the victim of the accident. The claim petitions under the Act are required to be dealt with with sensitivity and should not be dealt with like other normal civil litigation. The approach of the Tribunal should be beneficial towards the honest and *bona fide* victim of the accident and in such cases the claimant should not be non-suited purely on the technical grounds. The claimant in this case is a minor girl and has suffered the multiple serious and grievous injuries. The learned Tribunal was not justified to dismiss the petition on the technical ground that the appellant-claimant was unable to produce the evidence. In order to meet out the ends of justice, the learned Tribunal could have at least granted one more opportunity with some warning.

7. Thus, keeping in view my aforesaid discussion, the present appeal is hereby allowed. The impugned award dated 08.02.2012 is hereby set aside. The case is remitted to the learned Tribunal. The learned Tribunal

is directed to give one more opportunity to the appellant-claimant to produce the evidence. Obviously, thereafter the respondents will also have the adequate opportunity to lead their evidence and then the claim petition be decided on merits afresh in accordance with law.

8. The parties are directed to appear before the Tribunal on 12.12.2016.

10.11.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No