

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

**FAO No.4524 of 2012 (O&M)
Date of decision-09.02.2016**

Sharda Devi and another	.. Appellants
Vs.	
Kulwant Kumar and another	..Respondents

CORAM:- HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Sandeep Punchhi, Advocate
for the appellants.

Mr. Binat Sharma & Mr.A.S. Sidhu, Advocates
for respondent No.2.

AJAY TEWARI, J (Oral)

This appeal has been filed against the award whereby the claim petition has been dismissed.

The Tribunal dismissed the petition on the ground that though the same was filed under Section 163-A of the Motor Vehicles Act yet while appearing to give their testimony the claimants insisted that the income of the deceased was Rs.50,000/-.

Learned counsel for the appellants has argued in that situation it was incumbent upon the Tribunal to have tried the petition under Section 166 as one being the beneficial legislation and proposed that the matter be sent back to the Tribunal for fresh decision under Section 166 of the Act.

Counsel for the Insurance Company-respondent No.2 states that he would have no objection to this course of action but the appellants cannot be allowed the benefit of period of pendency of claim petition and the present appeal and therefore the direction should be given that they would not be entitled to any interest for the period from the date of filing of the claim petition till today.

Counsel for the appellants is not in a position to refuse this.

In the circumstances, the prayer made by learned counsel for the appellants is allowed. The appeal is disposed of. The impugned award is set aside. The matter is remanded back to the Tribunal for fresh decision under Section 166 of the Act. However, the appellants will not be entitled to any interest from 21.05.2010 till today.

Parties through counsels are directed to appear before the Tribunal on 11.04.2016.

Let the record be sent back to the Tribunal, if it is here.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

February 9, 2016

vanita