

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

**C. R No. 7802 of 2017 (O&M)
Date of decision : 10.11.2017**

Sarwan Kumar and anr.

....Petitioners

versus

M/s National Insurance Co. Ltd and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Baljeet Beniwal, Advocate
for the petitioners.

RITU BAHRI, J. (Oral)

Challenge in this petition is to order dated 06.10.2017 passed by learned Motor Accident Claims Tribunal, Palwal whereby the application under Section 9 Rule 13 read with application under Section 151 CPC for setting aside order dated 07.03.2011 was dismissed and ex parte award dated 23.12.2011 (Annexure P-4) whereby the petitioners were proceeded ex parte.

A perusal of the impugned order (Annexure P-3) and ex parte award (Annexure P-4) shows that the claim petition was filed by the claimants and petitioners despite service through publication failed to appear and were proceeded ex parte vide order dated 07.03.2011. Vide award dated 23.12.2011, the Insurance company was exonerated from its liability to pay compensation to the claimants and gave the recovery rights to the Insurance company. The petitioners thereafter, filed an application on 01.04.2015 after a gap of almost 04 years that they have not been served with any summons and have no knowledge about the pendency of the claim

petition. They came to know about passing of the award against them when Insurance company served a notice upon them for recovery of compensation amount.

After going through the award and the impugned order, it seems that the claim petition was filed on 18.12.2007 and notice to respondents was issued for 05.03.2008 but on that date, notices were not received back in any form and were again ordered to be issued for 02.05.2008, 01.08.2008, 19.09.2008, 24.10.2008 and 12.12.2008 for summoning of the petitioners. Thereafter when the petitioners finally not put in appearance till 25.09.2009, the claimants moved an application for effecting substituted service upon the petitioners as they were avoiding the service. The application was allowed and the petitioners were ordered to be summoned for 06.11.2009, 21.11.2009, 20.02.2010 and 03.04.2010. Thereafter, on 03.04.2010, it was notice that publication had been effected for 20.02.2010, 20.05.2010, 29.07.2010, 09.09.2010, 14.10.2010, 22.11.2010, 20.12.2010, 31.01.2011, 07.02.2011 and 07.03.2011 but they failed to appear.

Thus, the Court below has rightly held that the petitioners failed to shown that they were not served and they were not having any knowledge regarding the claim petition.

The petition stands dismissed

10.11.2017

G.Arora

Whether speaking/reasoned
Whether reportable

Yes
No

(RITU BAHRI)
JUDGE