

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

1. FAO-4976-2008 (O&M)
Date of decision: 11.10.2017

Vikas Kumar Appellant

Versus

The Oriental Insurance Company Limited and others

..... Respondents

2. CR-6168 of 2008

Vikas Kumar Petitioner

Versus

The Oriental Insurance Company Limited and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : None for the appellant/petitioner.
Mr. V.K.Garg, Advocate for respondent No.2.

Avneesh Jhingan, J.

The present Civil Revision No.6168 of 2008 filed against the order dated 09.09.2008 passed by the Motor Accidents Claims Tribunal, Panipat (hereinafter referred to as the 'Tribunal') dismissing the application under Order 9 Rule 13 CPC moved by Krishan and Vikas Kumar Garg (respondents No.1 and 2 before the Tribunal) finding no sufficient ground to set aside ex-parte order dated 22.07.2006.

FAO No.4976 of 2008 along with application for condonation of delay of 707 days has been filed challenging the award dated 22.07.2006.

This case was burnt case and the record has been reconstructed from the salvaged record and the copies supplied by the counsel subject to just exceptions.

As per the reconstructed record, the delay in file filing the appeal, was condoned vide order dated 15.11.2010.

The grievance of the petitioner/appellant as per the petition/appeal is that the Insurance Company has wrongly been given the recovery rights and his rights have been prejudiced by the exparte order passed by the Tribunal. His case is that he may be granted one opportunity to appear before the Tribunal with regard to the liability part of the award, the position would be clear that the Insurance Company was liable to pay the compensation.

I have heard learned counsel for respondent No.2 and perused the paper book.

Learned counsel for the Insurance Company opposed the civil revision as well as the appeal but could not raise any serious objection to remanding back the case to the Tribunal, for granting opportunity to the petitioner/appellant to adduce evidence to show that he was not liable to pay compensation.

Accordingly, the matter is remitted back to Tribunal to decide the issue only with regard to determination of the liability interse between the Insurance Company and driver and owner. The amount awarded by the Tribunal would not be effected by this remand. The parties are directed to appear before the Tribunal on 05.12.2017.

The appeal and the civil revision are disposed of accordingly.

11.10.2017
anju

(AVNEESH JHINGAN)
JUDGE

1. Whether the order is speaking/reasoned: Yes/No

2. Whether the order is reportable : Yes/No