

FAO No.5195 of 2005 (O&M)

New India Assurance Company Ltd.

Vs.

Parkash Kaur and others

Present : Mr.D.K.Prajapati, Advocate for
Mr.R.S.Madan, Advocate
for the appellant.

None for respondents No. 1 to 3.

Respondent No.4 (owner) remains un-served in spite of various opportunities given to the Insurance Company, to effect his service. On 14.11.2014, notice was issued to the said respondent, and the same was received back with the report that he was not residing at the given address. Opportunity was given to supply fresh address on 16.02.2015. Thereafter, another opportunity was given on 30.03.2016, and counsel has prayed for time to serve respondent No.4.

Keeping in view the fact that for a period of more than 2-1/2 years the said respondent has not been served after the case has been reconstructed, after it had been burnt. Thus, no further opportunity is liable to be granted.

Amount has been awarded on account of death of the employee to the claimants i.e. widow and the children. The factum of the deceased, dying in the road accident has also been admitted by the employer. The only issue now which has been raised is that the deceased had not possessed a valid license, therefore the amount should be recovered from the owner.

Keeping in view of the fact that the owner of the vehicle

could not be served, the present appeal is dismissed for want of prosecution qua the said respondent. Once that is the position, the appeal qua the claimants also does not survive, as nothing could be argued that the order of the Commissioner suffered from any other infirmity, dis-entitling them from the amount awarded in their favour.

02.03.2017
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[G.S.Sandhawalia]
Judge