

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

**FAO No. 6624 of 2011 (O&M)
Date of Decision: November 14, 2017**

**Kamla Devi and others
Versus**

...Appellants

Samun Khan and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Amit Singla, Advocate
for the appellants.

ANITA CHAUDHRY, J.

The claimants are aggrieved by the dismissal of the second claim petition filed by them by the Motor Accident Claims Tribunal, Fatehabad (here-in-after referred to as the Tribunal).

It is necessary to notice the factual score. A claim petition was filed under Section 163-A of the Motor Vehicles Act seeking compensation for the death of Kuldeep, who had died in an accident on 02.07.2006. Prior to the claim petition, filed in November 2009, the claimants had filed a claim petition bearing No. 117-MACT of 2006 on the same cause of action, which was dismissed in default due to non-appearance of the petitioners on 05.11.2008. An application for restoration of the claim petition was filed, which was allowed by the Tribunal. The order is reproduced in the impugned judgment. The restoration was order subject to deposit of Rs.1,000/- with the District Legal Services Authority, Fatehabad within a week. That amount was

not deposited and an application for extension of time was filed stating that there village was at a distance of 60 kilometers and the amount could not be deposited. The Tribunal dismissed the application. Instead of challenging that order, the claimants filed another claim petition in November 2009 and disclosed that they had earlier filed a claim petition. The Tribunal has dismissed the claim petition holding that a second claim petition could not have been filed. The claimants had relied upon a Division Bench Judgment rendered by the Jharkhand High Court reported in 2010 ACJ 1661.

The Tribunal distinguished the judgment and held that the second claim petition was not maintainable.

I have heard the counsel for the appellants at length and I am unable to agree with the submissions sought to be put on behalf of the appellants. The only remedy available with the claimants was to challenge the order when extension was not granted. That order was never challenged. A second claim petition could not have been filed. The Tribunal had ordered the restoration of the first petition subject to deposit of a small amount, which was not deposited.

I find no infirmity in the order. The appeal is dismissed.

(ANITA CHAUDHRY)
JUDGE

November 14, 2017

sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No