

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

502

CM-20660-CII-2018 in/and
FAO-4421-2003 (O&M)
Date of Decision : 24.9.2018

Smt. Panno Devi

....Appellant

vs.

Sh. Harvinder Singh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. G.S.Sandhu, Advocate
for the appellant.

Mr. Ravinder Mohan Suri, Advocate
for the respondent No.3.

AJAY TEWARI, J. (Oral)

This is an application for impleading all the legal heirs of Bhartu who had died in the accident. It may be noticed here that the claim petition was dismissed on the preliminary ground that all the legal representatives of the deceased had not been impleaded either as claimants or respondents. The same has not been opposed and consequently, apart from the appellant other legal representatives are impleaded as respondents No. 4 to 10.

Counsel for the insurance company has pointed out that this would not be the end of the troubles for the claimants because now an application under Order 6 Rule 17 would have to be filed to amend the claim petition. Counsel has further argued that this case was decided on

preliminary issues and there is no reference to any evidence on merits and consequently, in any case even if an application under Order 6 Rule 17 is moved to amend the claim petition and the same is allowed, the matter would have to be remanded back to the Motor Accident Claims Tribunal for decision on merits. He has further argued that in this case this Court would also have to keep in mind that the insurance company cannot now be burdened with interest for the entire period when the non-maintainable claim petition was filed or this appeal kept pending.

The last point is well taken. There is also no doubt that the claim petition would have to be amended and also there is no doubt that the insurance company should not be burdened with interest for this long period. In the circumstances, I do not deem it appropriate to now ask the claimants to file application for amendment and on the oral request of the counsel for the applicant-claimants the claim petition is ordered to be amended to the extent that the present respondents No. 4 to 10 are impleaded as respondents in the claim petition.

The matter is remanded back to the Motor Accident Claims Tribunal, Karnal for a fresh decision on merits. The Tribunal is directed to decide within one year from the date of appearance of the parties. Parties through counsel are directed to appear before the Motor Accident Claims Tribunal, Karnal on 26.11.2018. It is also made clear that if the claim petition is allowed and compensation is awarded, the claimants would be entitled to interest only with effect from today.

Counsel for the appellant further states that since issues were struck and the matter has to be taken up from the stage of evidence he

would seek not more than four months to lead entire evidence.

Counsel for the insurance company also prays for four months time to lead his evidence. Allowed as prayed for.

I find from the service report that respondents No. 1 and 2 had refused to accept the notice and service is effected upon them by refusal and they were proceeded against ex parte on 20.8.2014. In the circumstances, I do not deem it appropriate now in the interest of justice to require the appellant to serve them again in the claim petition.

The application as well as the appeal stand disposed of in the above terms. Let the record be sent back to Motor Accident Claims Tribunal, Karnal (as existing) immediately.

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

24.9.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No