

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

(1) **FAO No. 116 of 2000 (O&M)**
Date of Decision: April 16, 2018.

KanwaljitAPPELLANT(s).

VERSUS

Madan Lal and othersRESPONDENT(s).

(2) **FAO No. 117 of 2000 (O&M)**

Sushil KumarAPPELLANT(s).

VERSUS

Madan Lal and othersRESPONDENT(s).

(3) **FAO No. 118 of 2000 (O&M)**

SatpalAPPELLANT(s).

VERSUS

Madan Lal and othersRESPONDENT(s).

(4) **FAO No. 119 of 2000 (O&M)**

Satya DeviAPPELLANT(s).

VERSUS

Madan Lal and othersRESPONDENT(s).

(5) **FAO No. 120 of 2000 (O&M)**

Kanta DeviAPPELLANT(s).

VERSUS

Madan Lal and othersRESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. V.K.Kataria, Advocate for
for the appellant (s) in all the appeals.

None for the respondents.

SURINDER GUPTA, J.(Oral)

The above captioned appeals have been filed against the award dated 22.07.1999 passed by Motor Accident Claims Tribunal, Sri Muktsar Sahib, whereby the claim petitions filed by the appellant(s) were dismissed for want of evidence.

The accident in all the aforesaid appeals took place on 09.10.1994 at about 10.30 a.m. in the area of police station, Fatehabad. The facts relating to the accident as given in para 23 of the claim petition filed by Kanta Devi, are reproduced as follows:

That on 9-10-1994 at about 8.00 a.m., the claimant along with her husband Kanwaljit Singh, mother-in-law, father-in-law and their minor daughter Sammi were going from Gidderbaha to Hissar via Fatehabad to see her daughter Nancy who is studying in Vidya Devi Jindal Public School, Hissar. The claimant was travelling in Maruti Car No. DBB-1744. When it reached in the revenue limits of P.S.Fatehabad on GT Road, near Bajaj Biscuit Factory and our car was on our extreme left side. At that time one Ambassador car No. AP-10A/2247 driven by Madan Lal respondent No. 1 came from Hissar side on a very high speed and being driven rashly and negligently became out of control thus it came towards our side and struck with our car. The impact was so high that the Maruti car was totally damaged. We all the occupants as above mentioned received multiple fractures/injuries on their persons. At the place of accident one Vinod Bansal of Fatehabad reached at the spot and took us to Civil Hospital, Fatehabad where we

were given first aid and medico-legal report was prepared by Dr. N.Chakerwarti who treated us. Keeping in view the seriousness of the injuries we were advised to shift to some better hospital, thus we admitted later on in DMC, Ludhiana, where I was discharged on 16-10-94. I am still under treatment. Time to time visits DMC Ludhiana as well as regularly getting treatment from Dr. Kailash, G.T. Road, Hospital, Bathinda along with the other injured. I have already spent about Rs. 50,000/- on account of medical expenses, special diet, Taxi charges, and hospital expenses etc. The claimants still confined to bed and is not able to look after his work and she is suffering a lot.

The accident in question was entirely due to the rash and negligent driving of respondent No. 1 The Ambassador Car was duly insured with respondent No. 3 and owned by respondent No. 2. The claimant is entitled for the compensation amount of Rs. 2.00 Lacs along with interest at the rate of 18% per annum from the date of accident till payment and costs incurred by the claimant for the pursuing the claim case. This court/forum has the jurisdiction to entertain this act under amended Act.

After framing the issues on 24.09.1998, all the claim petitions were fixed for evidence of the claimants and it appears that only one witness was examined till 22.07.1999. On this date, an application was moved seeking adjournment on the ground that counsel for the claimant(s) is sick.

While declining the application, the Tribunal passed the order as follows:

No witness of the claimants is present despite (sic last) responsibility. A date is sought on the ground that the counsel for the claimants is sick and as such could not come today. It is to be observed that after framing of issues on 24-9-98 the case was adjourned to 12-11-98, 17-12-98, 28-1-99, 4-3-99, 6-5-99 and for today but no witness had been produced so far and even the claimant himself has not appeared in the witness box. PF/DM or list of witnesses has also not been filed so far. Last opportunity had been granted for 6-5-99 and despite this fact, case was adjourned (sic for) today. Keeping in view all these facts, I do not find any justification for further adjournment and as such the request is declined. Counsel for the respondent No. 3 has made a statement that he does not want to led any evidence on behalf of the respondent No. 3. Arguments heard. The petition is dismissed vide separate order of today. File be consigned to the record room.

*Sd/-
MACT, 22-7-1999.*

Learned counsel for the appellant(s) argues that the claimant(s) could not produce evidence on 22.07.1999 as their counsel was unwell. The Tribunal has noted this fact in the order but has given no reason for declining the adjournment while closing the evidence. The Tribunal has not taken note of the fact that it is a social legislation enacted to help the victims in motor vehicle accidents. The claimant(s) in all the appeals have suffered serious injuries and their claim petitions were dismissed for want of evidence. He submits that the claim petitions be remanded back to the

Tribunal with direction to give opportunity to the claimant(s) to produce the

evidence and decide the same on merits.

Perusal of the paper book and copy of orders show that after framing of issues, the Tribunal has allowed 5/6 opportunities to the claimants to produce evidence and the case was fixed for 22.07.1999, for evidence of claimant(s). On this date, an application was moved that the counsel for the claimant(s) was suffering from fever and adjournment was sought. The Tribunal took note of this fact in order dated 22.07.1999 but declined to allow any further adjournment in view of the fact that already five adjournments had been allowed to the claimant(s). The claimant(s), in order to produce evidence, were dependent on their counsel and even if they had brought witnesses before the Tribunal on 22.07.1999, their statements could not be recorded in the absence of counsel. Even otherwise, they could not be made to suffer due to non-appearance or for the lapse, if any, of their counsel. Looking into the fact that counsel for the claimant(s) was stated to be sick, the Tribunal should have allowed one more opportunity to the claimant(s) to produce evidence instead of closing the same by order and dismissing the claim petitions.

Keeping in view the above facts, the above captioned appeals are allowed. Award passed by the Tribunal in all above captioned appeals is set aside and these cases are remanded to Motor Accident Claims Tribunal, Sri Muktsar Sahib, where the parties are directed to appear on 22.05.2018. The Tribunal will take up the claim petitions, allow opportunity to the claimants/respondents to produce evidence and decide the cases afresh, on merits in accordance with law.

April 16, 2018.
Jyoti-II

(SURINDER GUPTA)
JUDGE