

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

449

**X-OBJC-9-CII-1997
FAO No.2997 of 1996 (O&M)
Date of Decision : 04.04.2018**

National Insurance Company Ltd.

..... Appellant

Versus

Smt. Bachan Kaur and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Sandeep Suri, Advocate for
Mr. R.M.Suri, Advocate
for the appellant.

Mr. S.P.Gupta, Advocate
for the respondents.

AJAY TEWARI, J. (Oral)

X-OBJC-9-CII-1997

The claimants have filed cross objection in which it has been claimed that the deceased used to get a travelling allowance of Rs.30/- per day and that should have been counted in the wages.

In my considered opinion, that also can not be allowed because the travelling allowance is in the nature of a compensatory allowance and can not be taken to be a part of salary.

In the circumstances, X-Obj. is dismissed.

FAO No.2997 of 1996

This appeal has been filed against the order dated 06.09.1996 passed by the Commissioner, Hoshiarpur under the Workmen's Compensation Act, 1923 by the Insurance Company. Since a very limited point has been raised further detailed reference to the facts is not necessary.

The issue which is involved is whether a person who has first filed a claim under the Motor Vehicles Act, 1988 and has later withdrawn the same can then file a claim before the Commissioner under the Workmen's Compensation Act, 1923.

To my mind, once a case is permitted to be withdrawn it would be deemed to have never been filed at all.

Consequently, the argument of the learned counsel for the appellant-Insurance Company which is based on Section 167 of the Motor Vehicles Act, 1988 would not come into play.

Appeal is dismissed.

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

04.04.2018*Pooja sharma-I***(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No