

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

122+449

Date of Decision : 08.10.2018

FAO No.2554-2000 (O&M)

Jaswinder Kaur

..... Appellant

Versus

Balkar Singh and others

..... Respondents

**CM No.21952-CII of 2018 in/and
FAO No.2763-2000 (O&M)**

Ranbir

..... Appellant

Versus

Balkar Singh and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Palvinder Singh, Advocate
for the applicant-appellant.

Ms. Prabha Sharma, Advocate for
Ms. Kiron Bala Jain, Advocate
for respondent No.1.

Mr. Neeraj Khanna, Advocate
for respondent No.3-Insurance Company.

AJAY TEWARI, J. (ORAL)

**FAO-2554-2000 and
CM No.21952-CII of 2018 in/and FAO No.2763-2000**

This order shall dispose of above mentioned two appeals.

These two appeals have been filed against the dismissal of

the claim applications. The main reason why the claim applications were dismissed was none had appeared to testify with regard to rash and negligent driving of respondent No.1. An application bearing CM No.21952-CII of 2018 dated 04.10.2018 was filed for additional evidence in which it was prayed that the appellant-Ranbir Singh could not lead his evidence because of the negligence of his counsel and a prayer had been made to permit the appellant to examine himself.

Counsel for the respondents have opposed this application on the ground that the parameters of Order 41 Rule 27 CPC has not been made out.

In my opinion, this being a beneficial legislation it would not be appropriate for this Court to decide it like a civil suit. However, the delay in filing this application can not be at the cost of the respondents.

In the circumstances, I deem it appropriate to allow the application but to permit that in case the claim petition is allowed the appellants would be entitled to interest only from 04.10.2018 and not from the date of filing the initial claim petitions. Ordered accordingly.

Counsel for respondent No.3-insurance company points out that because the claim petition was dismissed the insurance company did not file any appeal against the finding that the licence of respondent No.1 was not valid. Since I am setting aside the award in entirety, it would be open to the insurance company to raise this issue at the appropriate stage before the Tribunal.

The matter is remanded back to District and Sessions Judge, Ambala to either decide the case himself or to nominate any

other competent officer for this purpose.

Parties through their counsel are directed to appear before the District and Sessions Judge, Ambala on 20.11.2018.

It is made clear that the appellant is to be granted only one opportunity to examine Ranbir and he would not be permitted to lead any other evidence.

Both the appeals stand disposed of in the above terms.

Since the main cases have been decided, the pending civil miscellaneous applications, if any, also stand disposed of.

08.10.2018
pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No