

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

**FAO No. 2750 of 2000 (O&M)
Date of Decision: April 18, 2018.**

Smt. Saroj and others

.....APPELLANT(s).

VERSUS

Sant Singh and another

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Adish Gupta, Advocate
for the appellants.

Mr. V.Ramaswaroop, Advocate
for the respondent.

SURINDER GUPTA, J.(Oral)

CM-16218-CII-2000

This is application filed by the appellants/claimants seeking permission to examine Kesari, Rajbir and Amar Chand, who are eye-witnesses of the accident, in additional evidence.

Learned counsel for the applicants-appellants submits that the appellants being illiterate persons, could not examine the aforesaid persons, resulting in dismissal of their claim petition. Another claim petition relating to the same accident was filed by Smt. Shashi Bala and others, claiming compensation for the death of Kishan Singh in that accident, which was allowed by Motor Accident Claims Tribunal, Faridabad, vide award dated 11.09.2001. An FAO No. 838 of 2002 was also filed seeking enhancement of compensation as awarded by the Tribunal, which was allowed vide order dated 14.07.2015. The dismissal of claim petition filed by the appellants has

resulted in two different verdicts regarding the same accident. As such, permission be allowed to examine eye witnesses of the accident.

Learned counsel for the respondents admits that other claim petition relating to the same accident was allowed and finding was recorded by the Tribunal that the accident had taken place due to rash and negligent of driver of the offending vehicle i.e. bus No. DL-1-PA-2848.

Keeping in view the above facts, I am of the opinion that the testimony of eye witnesses sought to be examined is material and will help the Tribunal to decide the claim petition filed by the appellants on merits. The mere fact that the claimants have committed default in not examining the material witnesses, who have witnessed the occurrence, is no reason to deny them opportunity to examine those witnesses in additional evidence. It is a social legislation and its a duty of Motor Accident Claims Tribunal to look into the interest of victims/their dependents.

In view of the above facts, this application is allowed.

FAO-2750-2000

As a sequel of my above discussion in application (CM-16218-CII-2000), this appeal is allowed. Impugned award passed by Motor Accident Claims Tribunal, Faridabad, is set aside. Parties are directed to appear before the Tribunal on 28.05.2018. The Tribunal will allow opportunity to the claimants to lead additional evidence as per the application, copy of which will be attached with file of the Tribunal and decide the case, in accordance with law, on merits.

(SURINDER GUPTA)
JUDGE

April 18, 2018.
Jyoti-II

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***