

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO NO.859 of 2001(O&M)
Date of Order: 03.12.2018

Anju and others

..Petitioners

Versus

Balwan Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anil Ghanghas, Advocate,
for the appellants.

Mr. Surnder Lamba, Advocate,
for respondent no.4.

ANIL KSHETARPAL, J.

This appeal has been preferred against the award passed by the learned Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as the Tribunal').

Predecessor of the appellants Bhagirath died in an accident while he was driving a truck which met with an accident with another vehicle i.e. Jeep. Owner, driver and Insurance Company of the jeep, offending vehicle were impleaded as parties-respondents. However, claimants did not implead owner and Insurance Company of the vehicle being driven by the deceased as party-respondents.

Learned Tribunal after recording a finding that both the drivers of the vehicles involved in the accident were contributory negligent, awarded a sum of Rs.1,35,000 along with interest, which admittedly has been paid.

Before this court, an application under Order 1 Rule 10 of the Code of Civil Procedure was filed by the appellants to implead owner of the truck which was being driven by the deceased Bhagirath as well as Insurance Company. The aforesaid application has already been allowed.

Learned counsel for the appellants has also filed an application for taking note of the award passed by a Lok Adalat in a separate case arising from the same accident, wherein Insurance Company has paid the compensation.

Be that as it may, once 2 respondents have been impleaded by the appellants as party-respondents for the first time in this court, they have to be given opportunity to defend the case.

No doubt, the accident took place in the year 1997 and the appeal has remained pending in this court for 17 years. However, without granting opportunity to the newly added respondents, this court cannot proceed with the matter.

Keeping in view the facts and circumstances of the present case, it is considered appropriate that the learned Tribunal should be directed to re-decide the claim petition after giving appropriate opportunity to the newly added respondents who would be treated to have been added as respondents in the claim petition. The learned Tribunal would make a sincere endeavour to decide the claim petition once again within 3 months from the date of receipt of a certified copy of the order. The award passed by the Motor Accident Claims Tribunal is set aside.

Parties through their counsels are directed to appear before the learned Motor Accident Claims Tribunal, Bhiwani, on 22.01.2019.

The amount which has already been paid to the appellants shall

not be recovered till the decision of the claim petition.

Needless to observe that the learned Tribunal shall be entitled to re-assess the compensation payable in accordance with law without being influenced by earlier assessment.

December 03, 2018
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No