

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112

FAO No.4153 of 2009 (O&M)

Date of decision: 17.04.2018

Suresh

..... Appellant

Versus

Ramveer and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Ashok Tyagi, Advocate
for the appellant.

Mr. R.C. Gupta, Advocate
for respondent No.4-Insurance Company.

ANIL KSHETARPAL, J. (ORAL)

Claimants are in the appeal against the judgment passed by the learned Motor Accident Claims Tribunal dismissing their petition. Along with the appeal, an application for permission to lead additional evidence has been filed and it has been pointed out that out of the same accident, another claim petition was filed before the Court at Delhi wherein Insurance Company has settled the dispute by paying compensation in conciliation proceedings.

Learned counsel for the respondent-Insurance Company was requested to verify this fact and the case was adjourned. However, when the case was taken up today, counsel frankly submitted that he has not received any communication. Hence, application for additional evidence is allowed.

Assuming, for the time being, that the Insurance Company has paid certain compensation arising out of the same accident. The aforesaid

order passed by the learned Motor Accident Claims Tribunal passed by the Court at Delhi on 21.09.2004 would be a material piece of evidence. Since the aforesaid material piece of evidence was not available before the learned trial Court, therefore, this Court is of the considered opinion that rather than considering the effect of the aforesaid order in the first appeal for the first time, it would be more appropriate if after setting aside the award passed by the learned Motor Accident Claims Tribunal, the Tribunal is directed to re-decide the matter after considering all aspects including the effect of order passed by the learned Motor Accident Claims Tribunal, Delhi dated 07.07.2004.

In view thereof, the award under challenge is set aside. Learned Motor Accident Claims Tribunal is directed to re-decide the matter after taking into consideration the order passed which has been allowed to be led in additional evidence. Insurance Company would be at liberty to dispute correctness of the additional evidence and defend the petition in accordance with law.

Parties through their counsel are directed to appear before the learned Motor Accident Claims Tribunal on 15.05.2018.

The pending miscellaneous applications, if any, shall stands disposed of accordingly.

Appeal is disposed of.

17.04.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No