

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

FAO No.4391of 2013 (O&M)

Date of decision: 09.03.2018

Jaswinder Kaur and others

.... Appellants

Versus

Man Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.P.S.Sullar, Advocate
for the appellants.

None for respondents No.1 and 2.

Mr.Rajneesh Malhotra, Advocate
for respondent No.3-Insurance Company.

Avneesh Jhingan, J.

The present appeal arises from the award dated 01.05.2013 passed by Motor Accidents Claims Tribunal, Fathehgarh Sahib (hereinafter referred to as the 'Tribunal').

In a motor vehicular accident that took place on 12.01.2000, Mohan Singh lost his life. While going on his scooter bearing registration No.PB-52-5767 near Phase-VIII, Mohali, a truck bearing registration No.HYL-7269 (for short, 'the offending vehicle') struck his scooter. The truck was being driven rashly and negligently. As a result of the accident, Mohan Singh suffered injuries. He was taken to PGI, Chandigarh, where he died. FIR No.16 dated 12.01.2000 was registered at Police Station Mohali.

The legal heirs of the deceased filed a claim petition under the Motor Vehicles Act, 1988 (for short, 'the Act') at Panchkula. The said claim petition was withdrawn on 24.01.2003 without any permission to file fresh on the same cause of action. Thereafter, after more than 4½ years on 17.10.2007, a fresh claim petition was filed at Ropar. The claim petition was dismissed in default on 16.12.2008. The application filed for restoration of the claim petition was also dismissed in default.

After more than three years, another claim petition was filed at Fatehgarh Sahib. Tribunal dismissed the claim petition by holding that the same is not maintainable as earlier two claim petitions on same cause of action were dismissed.

Aggrieved of the said award, the present appeal has been filed.

Learned counsel for the appellants argues that his only contention is that the matter be sent back to the Tribunal for decision on merits as the widow has lost her husband in the accident and the case is very good on merits.

Learned counsel for the Insurer of the offending vehicle defends the award.

There is no dispute on the fact that the appellants have been filing the claim petitions earlier and not pursuing the same. The first claim petition was withdrawn without having any liberty to file fresh on the same cause of action. As there is no limitation for filing the claim petition, after more than 4 ½ years, another claim petition was filed which was not pursued and dismissed in default. An application for restoration was filed,

which was further dismissed in default. Instead of pursuing the said claim petition after more than three years, another fresh claim petition was filed.

Keeping in view the facts and the conduct of the appellants, no defect can be found in the award passed by the Tribunal.

The appeal is dismissed.

(AVNEESH JHINGAN)
JUDGE

09.03.2018

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1. Whether the order is speaking/reasoned: Yes/No

2. Whether the order is reportable : Yes/No