

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.6275 of 2014
Date of decision: 05.12.2018

Piyari Devi

.... Appellant

Versus

Jitender Taya alias Jeetu and another

..... Respondents

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Yashdeep Nain, Advocate for
Mr. Kuldeep Tiwari, Advocate for the appellant.

Mr. Saurabh Sharma, Advocate for respondent No.1.

Mr. Pradeep Kumar, Advocate for respondent No.2.

B.S. Walia, J. (Oral)

[1] Appeal has been filed challenging award dated 04.02.2013 passed by the learned Motor Accidents Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal') dismissing the claim petition on account of no evidence having been led by the appellant/claimant.

[2] A perusal of the award reveals that issues were settled in the case on 27.09.2012 whereafter the case was adjourned to 23.10.2012 for evidence of the appellant/claimant, but on said date none appeared on behalf of the appellant/claimant, therefore, the petition was dismissed for want of prosecution. Thereafter, application was moved by learned counsel for the appellant/claimant for restoration of the claim petition dismissed for non-

05.11.2012 and case was adjourned to 29.11.2012 for evidence of the appellant/claimant. Again no evidence was brought by the appellant/claimant whereupon one more opportunity was granted and case was adjourned to 14.12.2012 for evidence of the appellant/claimant. Again no evidence was brought and case was adjourned to 05.01.2013 for bringing entire evidence. On 05.01.2013, there was no evidence of the appellant/claimant and case was adjourned to 04.02.2013 by way of last opportunity. Again no evidence was produced by the appellant/claimant. In the circumstances, the learned Tribunal while noticing that appellant/claimant had already availed five effective opportunities, declined to grant further opportunity and by recording that the appellant/claimant had failed to lead any evidence in support of her averments that she suffered injuries in a motor vehicular accident on 06.05.2012 due to negligent driving of respondent No.1 while driving offending Car No. HR 08N – 2000, no case was made out for grant of compensation. Accordingly, the claim petition was dismissed.

[3] In the instant appeal, the only argument of learned counsel for the appellant is for grant of one effective opportunity to the appellant to lead her entire evidence. However, the same has been vehemently opposed by learned counsel for the respondents on the ground that already number of opportunities were availed by the appellant but no evidence was led.

[4] I have considered the submissions of learned counsel appearing for the parties.

[5] Admittedly, the law applicable for making a claim for compensation on account of injuries sustained in a motor vehicular accident is a beneficial welfare legislation. Although the conduct of the appellant in not leading evidence despite availing number of opportunities does not

entitle the appellant to seek indulgence of the Court, yet solely on account of the fact that the provisions of law applicable being beneficial welfare legislation, harsh orders dismissing the claim petition on account of non-leading of evidence ought not to have been passed and one final opportunity ought to have been granted to the appellant by imposition of costs.

[6] In the circumstances, I am of the view that ends of justice would be met if the award is set aside, one effective opportunity is granted to the appellant to lead her entire evidence at her own risk and responsibility subject to payment of costs.

[7] In view of the facts and circumstances, the impugned award as well as order dated 05.01.2013 are set aside. Appellant is granted one effective opportunity to lead her entire evidence subject to payment of costs of Rs.10,000/- each to respondent No.1 as well as respondent No.2 as a condition precedent to her being allowed to lead evidence. Parties through counsel are directed to put their appearance before the learned Tribunal on 07.01.2019.

[8] Appeal is allowed in the aforementioned terms.

(B.S. Walia)
Judge

05.12.2018
amit

1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No