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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR-7182-2012 (O&M)

Date of decision: 14.10.2019

DARSHAN KUMAR & ANR.

... PETITIONERS

VERSUS

UNION OF INDIA AND ORS.

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Anil Rathee, Advocate for the petitioners.

Mr. Narender Kumar Vashist, Senior Panel Counsel
for the Union of India.

SUDIP AHLUWALIA J. (ORAL)

Application of the petitioners under Order 9 Rule 13 of Civil Procedure Code praying for setting aside the *ex parte* award dated 29.07.2004 passed against them was dismissed by the Ld. Tribunal, which was of the opinion that service upon them had been effected through one Sita Ram, ostensibly a member of their family.

2. This Court has perused the original summons returns maintained in the LCR. It is seen that the summons were issued in the name of one single person namely one "Bansi Dhar Laxman" son of Rati Ram, even though it transpires from the record itself that these are actually two different persons although sons of same father Rati Ram.

3. The service endorsement dated 23.04.2002 at the back of the summons does not explain how the person Sita Ram, who allegedly accepted service of summons, was at all related to the petitioners. In such circumstances, clearly the Ld. Court below was in error in holding that the service was duly effected upon both the petitioners/respondents in the original claim petition, where they were together shown to be one single person, although,

admittedly, they are two brothers and therefore, necessarily have to be two separate individuals.

4. Consequently, the *ex parte* award passed against them can clearly not be sustained. For the aforesaid reasons, the impugned order of the learned Court below is set aside, as also the *ex parte* award dated 29.07.2004 passed by the learned MACT, Hoshiarpur.

5. The Ld. Tribunal is now directed to decide the claim application afresh, for which purpose the respondents would also be required to file a corrected memo of parties.

6. Further, considering that the matter by now is very old, inasmuch, as the accident had taken place on 01.03.1999, the Ld. Tribunal is directed to decide the matter as expeditiously as possible and preferably within 4 months from the first date of appearance fixed before it.

7. Parties are directed to appear before the learned Tribunal at Hoshiarpur, on 26.11.2019. Security amount, if any, deposited on account of the petitioners, shall be retained by the said Court till final disposal of the main application.

(SUDIP AHLUWALIA)
JUDGE

14.10.2019

Mangal Singh

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