

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

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**CM-19489-CII-2019 in/and
FAO-5259-2011 (O&M)
Date of decision :8.11.2019**

Dharmender

..... Appellant

versus

Devender and othes

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Devender Kumar, Advocate for
Mr. Surinder Dagar, Advocate
for the applicant-appellant.

AJAY TEWARI, J. (Oral)

1. CM-19489-CII-2019 in/and FAO-5259-2011

This is an application under u/o 41 Rule 27 for producing the additional evidence. Learned counsel for the applicant-appellant has stated that the claim petition filed by the applicant was dismissed. One of the ground while dismissing the claim petition was that the MLR was not exhibited before the Court below (even though it was filed) and this happened due to negligence of the counsel.

2. Notice was issued to the respondent and the counsel was informed through e-mail. Mr. Arun Sharma, Advocate for Mr. Tejender Joshi, Advocate appears for respondent No.3 and very fairly stated that he would not oppose the grant of opportunities for leading additional evidence but then, even if the application is allowed and subsequently, claim petition is allowed, then the interest for the intervening period cannot be foisted on the insurance company.

3. Counsel for the appellant has accepted this condition.
4. In these circumstances, application stands allowed and the impugned order dated 24.2.2011 is set aside and the matter is remanded back to the Trial Court to pass the order afresh after considering the additional evidence. The Trial Court is directed to grant three effective opportunities to the appellant to examine the additional evidence and thereafter, three effective opportunities to opposite party also to cross-examine the evidence.
5. It is clarified that in case the claim petition is allowed, the interest on the compensation would be awarded only from today and not from the date of filing of the claim petition.
6. Let the record be sent back to the Trial Court immediately.
7. Parties through counsel are directed to appear before the Trial Court on 13.1.2020.
8. Appeal stands disposed of.
9. Since the main case has been disposed of, pending C.M., if any also stands disposed of.

(AJAY TEWARI)
JUDGE

8.11.2019
anuradha

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No