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

**FAO No.4845 of 2012 (O&M)
Date of Decision: 22.01.2019**

Avtar Singh

Appellant

Versus

Khalid Ahmed and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. K.S. Jetley, Advocate
for the appellant.

Mr. Subhash Goyal, Advocate
for respondent No.3.

Mr. Harish Bhardwaj, Advocate for
Mr. Sunil Narang, Advocate
for respondent No.4.

Mr. D.R. Bansal, Advocate
for respondent No.5.

AVNEESH JHINGAN, J (Oral):

The grievance raised in this appeal is against award dated 24.02.2012 passed by the Motor Accident Claims Tribunal, Ambala [for brevity 'the Tribunal'], whereby evidence of the claimant was closed and the claim petition was dismissed.

The facts in brief are that a motor vehicular accident took place on 04.10.2010. The offending vehicle involved in the accident was three wheeler bearing registration No. CH-32T-4540. DDR No. 63, dated 08.10.2010 was lodged at Police Station Manimajra. In the said accident, the appellant suffered injuries.

A claim petition was filed under Section 163-A of the Motor

Vehicles Act, 1988 [for brevity 'the Act']. Inspite of three opportunities, no evidence was adduced by the claimant. In the absence of evidence, the claim petition was dismissed. Hence, the present appeal.

Learned counsel for the appellant contends that he suffered a massive heart attack and even the claimant met with another accident, it was for this reason that on the three dates, no evidence could be produced. He further states that because of ill health, he could not convey the dates to the claimant.

Learned counsel for the respondents' defends the award.

Keeping in view the statement given by learned counsel for the appellant that there was some communication gap and the claimant could not be informed about the dates because of his ill health, the impugned award is set aside. The law is well settled that parties should not be made to suffer because of the conduct of the counsel. In the present case, the counsel himself was suffering from ill health.

In view of above, the matter is remitted back to the Tribunal to decide the claim petition afresh after issuing notice to the parties. Since the accident is of year 2010, the appellant shall conclude his evidence as expeditiously as possible.

The appeal is disposed of in aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

January 22nd, 2019
pankaj baweja

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