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

**FAO No.4686 of 2013 (O&M)
Date of Decision: 04.04.2019**

Bhupender

.....Appellant

Vs

Ekbal Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:None.

RAJ MOHAN SINGH, J. (Oral)

[1]. This appeal has been preferred against the award dated 08.12.2011 passed by the Motor Accident Claims Tribunal, Sonapat (for short 'the Tribunal) vide which the claim petition was dismissed in *toto*.

[2]. The appeal was barred by 484 days for which an application for condonation of delay was filed. Notice of the said application as well as in the appeal was issued on 14.05.2014. On the adjourned date i.e. 14.11.2014, fresh notice was ordered to be issued to respondent No.1 on filing fresh process fee as he remained unserved for want of name of grandfather and caste.

[3]. On 11.05.2015, it was noticed that the process fee was

not filed, nor the needful was done in the context of providing name of grandfather and caste of respondent No.1. Adjournment was sought by learned counsel for the appellant and the same was granted thereby directing the appellant to comply with the order dated 14.11.2014 within 15 days of passing of the order dated 11.05.2015, subject to payment of costs of Rs.1,000/- to be deposited with the Haryana State Legal Services Authority, Chandigarh. Thereafter, notice was to be issued to respondent No.1 in compliance of the said order. Thereafter compliance was not done, even on 01.10.2015 and 09.03.2016. The case was accordingly adjourned to 08.07.2016 i.e. the date on which last opportunity was granted to the appellant to do the needful, failing which the appeal was to be dismissed for non-prosecution.

[4]. Still the compliance was not done. On 18.10.2016, following order was passed by the Co-ordinate Bench of this Court:-

“Counsel for the appellant has failed to comply with order dated 11.05.2016 despite last opportunity granted for the purpose and rather expressed his inability to comply with the order with the plea that he could not get in touch with his client and guardian of the minor. He prays that one more opportunity may be granted to the petitioner to comply with the order.

In the interest of justice, one more opportunity is granted to the petitioner to comply with order dated 11.05.2016 failing which the appeal shall be deemed to be dismissed.

On necessary compliance being made, fresh notice to respondent No. 1, returnable for 02.05.2017.”

[5]. Perusal of the aforesaid order would show that one more opportunity was granted to the appellant to comply with the order dated 11.05.2015, failing which the appeal was to be dismissed with deeming fiction. Even thereafter the case was adjourned for 01.11.2017 i.e. the date on which none appeared on behalf of the appellant, nor the compliance was made in the context of taking steps to serve unserved respondent No.1. Today, also there is no representation on behalf of the appellant and even till date position remains the same.

[6]. In view of aforesaid facts on record, this Court has no alternative, but to dismiss the appeal for non-prosecution.

[7]. Dismissed for non-prosecution.

April 04, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No