

211

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

**FAO No.5731 of 2015
Date of Decision : 27.03.2019**

Hafiz and others

Appellants

Versus

M/s Delhi Gujrant Fleet Carrier Private Limited (DGFC) & others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ashish Gupta, Advocate
for the appellants.

Mr. Rajneesh Malhotra, Advocate
for respondent No.3.

AVNEESH JHINGAN, J (Oral):

The award dated 24.04.2015 passed by the Motor Accident Claims Tribunal, Gurgaon [for brevity 'the Tribunal'] dismissing the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'] has been assailed by the legal heirs of Sahina.

[2] Learned counsel for the appellants contends that the Tribunal dismissed the claim petition merely on the ground that the certified copy of the order dated 11.01.2013 withdrawing the earlier claim petition was not annexed. He further submits that detail of the earlier claim petition was duly given in the pleadings

of the subsequent claim petition.

[3] Learned counsel for the insurer argues that in absence of order, it is not forthcoming whether the facts pleaded in two claim petitions were same or not.

[4] Without expressing any opinion on the merits of the case, the award dated 24.04.2015 is set aside. The matter is remitted back to the Tribunal to decide the same afresh in accordance with law.

[5] Needless to add that it would be open for the insurer to raise the legal objections with regard to effect of earlier claim petition vis-a-vis present proceedings.

[6] The parties are directed to appear before the Tribunal on 13.05.2019.

[7] The appeal is disposed of accordingly.

[AVNEESH JHINGAN]
JUDGE

March 27, 2019

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