

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

**FAO No. 6944 of 2011 (O&M)
Date of Decision: May 06, 2019**

Naveen Kumar

.....APPELLANT

VERSUS

Shiv Kumar and others

.....RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. J.P.Sharma, Advocate
for the appellant.

Mr. Piyush Aggarwal, Advocate
for respondent No. 1.

Mr. Aditya Yadav, Advocate
for respondent No. 2.

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

Mr. Binat Sharma, Advocate
for respondent No. 4.

Mr. Ravinder Arora, Advocate
for respondent No. 5.

SURINDER GUPTA, J.(Oral)

Learned counsel for the appellant submits that brother of appellant namely Satish Kumar filed the claim petition under Section 166 of Motor Vehicles Act, claiming compensation for the death of Anita Devi, mother of the appellant, who was impleaded as performa respondent. Satish Kumar was ill and died on 10.08.2011. Due to his illness, claim petition was

not pursued on his behalf, which resulted in closing the evidence of claimant by order and dismissal of the claim petition. The appellant being a performa respondent was not aware of these facts, as such, could not pursue the same. He seeks two adjournments, subject to costs to produce evidence before the claim petition on behalf of the claimant.

Learned counsel for the respondent submits that though the Tribunal has allowed ample opportunity to the claimant and the appellant had not come forward to pursue the claim petition, still in the event of appeal being allowed and opportunity being allowed to the appellant, the Tribunal may be directed to look into the question of award of interest on compensation amount, if awarded, due to lapse on the part of the appellant.

The claim petition was filed on 12.09.2008. Perusal of the award shows that no evidence was produced by claimant resulting in closer of his evidence by order.

Claimant-Satish Kumar had died in the year 2011 i.e. after decision of this claim petition. His death is not a reason to record the observation that he could not produce the evidence despite due diligence but keeping in view the fact that claim petition was filed under a social legislation the appellant being performa respondent could not lead evidence in place of claimant and for decision of claim petition on merit, this appeal is allowed, subject to payment of ₹5,000/- as costs, which will be deposited with District Legal Services Authority, Narnaul within a period of three weeks. On deposit of the costs, the Tribunal will take the file on Board and implead the appellant as one of the claimant with legal heirs of Satish Kumar if they come forward to pursue the petition and allow him two

opportunities to lead evidence. The factum of grant of interest as per the submission of learned counsel for the respondent will be looked into by the Tribunal while passing the award.

May 06, 2019
Jyoti-II

(SURINDER GUPTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>