

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

207

FAO-8918-2014 (O&M)

Date of decision: 05.02.2020

RAJWINDER KAUR AND ORS

... Appellants

Versus

ONKAR SINGH AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Naveen Sharma, Advocate for the appellants.
Mr. MS Dhami, Advocate for respondent No.1.
Ms. Ambika Luthra, Sr. DAG, Punjab.
Mr. Ravinder Arora, Advocate for insurance company.

REKHA MITTAL, J. (Oral)

CM No.24232-CII of 2014

Heard.

Allowed as prayed for. Delay of 83 days in re-filing the appeal stands condoned.

Main Case

Challenge in the present appeal has been directed against award dated 09.12.2013 passed by the Motor Accidents Claims Tribunal, SBS Nagar whereby application for grant of compensation in respect of death of Pargat Singh @ Bittu has been dismissed, in view of findings on issue No.1.

Perusal of findings of the Tribunal would reveal that Tribunal has taken an adverse view against the claimants for their failure to examine Avtar Singh, author of FIR No.27 dated 07.04.2009 who happens to be father of deceased Pargat Singh.

Counsel for the appellants, on instructions, would inform that Avtar Singh is alive and claimants are ready to examine him before the Tribunal in case an opportunity is allowed for the purpose. He would further submit that a serious prejudice shall be caused to the claimants in case findings of the Tribunal on issue No.1 are sustained and claimants are denied compensation qua death of Pargat Singh who left behind his widow, two minor children and parents.

The proceedings before the Tribunal are summary in nature.

The Tribunal has an obligation to assess just and reasonable compensation

in deserving cases. Even when the information is received under Section 158 of the Motor Vehicles Act, 1988, the Tribunal has an obligation to initiate proceedings for grant of compensation. Even if the claimants failed to examine Avtar Singh, the Tribunal could well call upon claimants to examine Avtar Singh. In the given circumstances, interest of justice commands that findings of the Tribunal on issue No.1 are set aside and matter is remitted to the Tribunal for decision of the case afresh on the basis of materials already on record and additional evidence in the shape of testimony of Avtar Singh to be led by the claimants and thereafter evidence in rebuttal by the respondents therein.

In view of what has been discussed hereinbefore, the appeal is allowed. Findings of the Tribunal on issue No.1 are set aside and the matter is remitted to the Tribunal for decision of the case afresh in view of aforesaid observations. The respondents would be at liberty to raise an issue with regard to the period for which claimants would be entitle to interest in case ultimately their plea for grant of compensation is allowed. Parties through their counsel are directed to appear before the Tribunal on 28.02.2020. The Tribunal shall decide the matter within a period of four months of parties putting in appearance.

05.02.2020

ashok

Whether speaking/reasoned:
Whether reportable:

(REKHA MITTAL)
JUDGE

Yes / No
Yes / No