

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 5881 of 2016

Date of Decision: 21.12.2022

M/s Jai Luxmi Co-operative Society Limited

... Petitioner(s)

Versus

Parveen Kumar and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Pankaj Bali, Advocate
for the petitioner(s).

Mr. Sukhdarshan Singh, Advocate
for the respondent No.2.

Anil Kshetarpal, J.

1. While disposing of the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as “the 1988 Act”), the Motor Accidents Claims Tribunal, Karnal (hereinafter referred to as “the Tribunal”) allowed the insurance company, at the first instance, to pay the amount to the claimants and thereafter, recover the amount from the respondent No1 and 2 (the driver and the registered owner of the offending vehicle).

2. At the time of the judgment of the Tribunal, the respondent No.1 and 2 were proceeded against *ex parte*. An application under Order IX Rule 13 of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”) was filed by the respondent No.2 (the registered owner of the offending vehicle) for setting aside the *ex parte* judgment. It was contended

that the same has been dismissed on 22.07.2016 with the following order:-

“An application under Order 9 Rule 13 filed by the applicant-JD has been dismissed. Hence, the case is adjourned to 30.07.2016 for filing of application under Section 174 of the Motor Vehicle Act.”

3. From the reading of the aforesaid order, it appears that the application under Order IX Rule 13 CPC was dismissed by a separate order of the even date. Hence, the case was adjourned to produce the appropriate order. Now, the learned counsel representing the petitioner submits that this is the only order which has been passed by the Tribunal.

4. The learned counsel representing the insurance company is unable to controvert the aforesaid facts.

5. Keeping in view the aforesaid situation, the present revision petition is allowed and the order dated 22.07.2016 is set aside. The application under Order IX Rule 13 CPC is ordered to be restored to its original number. The Tribunal is directed to pass a speaking order while deciding the application under Order IX Rule 13 CPC. The Tribunal cannot pass an order without giving brief reasons while deciding the application. The parties, through their learned counsel, are directed to appear before the court on 20.01.2023.

(Anil Kshetarpal)
Judge

December 21, 2022

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No