

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

303

FAO No. 2202 of 1994 (O&M)

Date of Decision: 27.05.2022

United India Insurance Company Ltd.

....Appellant

VERSUS

Parmeshwari and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Ravinder Arora, Advocate for the appellant.

VIKAS SURI, J. (Oral)

This appeal has been preferred by the insurance company against the award dated 30.07.1994 passed by the Motor Accident Claims Tribunal, Kaithal, seeking recovery rights against respondent No.4-Smt. Om Pati, mother and legal representative of the driver-Baldev Singh, who had died during the pendency of the claim petition.

Perusal of the record would reveal that vide order dated 24.04.2014, fresh notice was issued to the respondents. As the same were not received back served or otherwise, on 09.07.2014, fresh notice was again ordered to be issued. On 22.09.2014, the following order was passed:-

“At the time of dictating the judgment, it was felt that for just decision of the appeal, respondent No.4 is required to be heard.

The original paper-book of the case had burnt in the accidental fire that broke out in the premises of this Court. However, a paper-book has been supplied by counsel for the appellant. But, from the papers, available on record, it is revealed that respondent no.4 was never served in this appeal.

In the circumstances, let notices be issued to the said respondent for 10.11.2014.”

On the following date i.e. 10.11.2014, after perusing the office report, it was recorded that notice could not be issued to respondent No.4 for want of correct address and the Registry was directed to telephonically request the learned counsel for the appellant to provide the address of the said respondent within a month. The order dated 10.11.2014 reads as under:-

“As per office report, notice could not be issued to respondent No.4 for want of correct address.

Registry to telephonically request learned counsel for the appellant to provide address of respondent No.4 within a month. On his doing so, notice to the said respondent be issued for 2.2.2015.

List as per Roster.”

It is reflected in the record that the Registry complied with the above order on 17.11.2014.

Thereafter, the matter could not be taken up and when it was listed on 17.02.2016, the following order came to be passed:-

“Shri Baldev Singh, driver of the tractor No.HR-09-2058 had died during the pendency of the claim petition. The appellant had impleaded Smt. Om Pati, who is the mother of deceased-Baldev Singh.

It is the case of the appellant that the Insurance Company is not liable to pay the amount of compensation but deceased Bladev Singh was liable to pay the same as he was the driver of the offending vehicle and his licence was not valid.

Learned counsel for the appellant would seek instructions as to whether it would be advisable for Insurance Company to pursue the appeal against the mother of the deceased in the light of the fact that respondent No.4 mother

of the deceased has remained unserved and now after about 22 years, they are seeking to effect service through publication, which itself would involve considerable expense.

Adjourned to 06.04.2016.”

Learned counsel for the appellant, thereafter, sought time on 05.08.2016 and 06.03.2017 to seek instructions in terms of the earlier order dated 17.02.2016. When the matter came up for hearing on 08.04.2022, after perusing the record and noticing the order dated 17.02.2016, indulgence was once again granted on the request of learned counsel for the appellant to comply with the earlier order and to also inform if the insurance company would still like to press the appeal or not. The operative part of the order dated 08.04.2022, reads as under:-

“In view of the above, as well as the circumstances noted in the order dated 17.02.2016 and the quantum involved in the case, learned counsel for the appellant prays for short accommodation to comply with the earlier order and also candidly inform if the appellant-Insurance Company would still like to press the appeal or not.”

Thereafter also on 22.04.2022, further accommodation was sought from the Court. On 06.05.2022, the following order was passed:-

“Learned counsel for the appellant submits that position is no different than on the earlier date.

One last opportunity is granted to the appellant to comply with the earlier orders or ensure service of the contesting respondent against whom the main relief has been sought in the appeal, failing which it may be of adverse consequence.

The appellant is directed to file an appropriate compliance affidavit on or before the next date of hearing.”

Despite last opportunity having been granted to comply with the earlier orders or ensure service of contesting respondent against whom

main relief has been sought, no steps have been taken by the appellant. The affidavit in terms of the order dated 06.05.2022 has also not been filed. Even no explanation is forthcoming on record.

In view of the above and also considering the fact that for last about eight years the appellant has not been serious in pursuing its remedy of appeal, this Court is left with no other option but to dismiss the same for want of prosecution.

Ordered accordingly.

Pending miscellaneous applications, if any, also stand disposed of.

(VIKAS SURI)
JUDGE

May 27, 2022
Sachin M.

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No