

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

FAO No. 4164 of 2017 (O&M)

DATE OF DECISION :- November 23, 2022

Attar Singh

...Appellant

Versus

Kailash and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Aditya Dassaur, Advocate for the appellant.

Mr. Punit Jain, Advocate for
respondent No. 3-Insurance Company.

C.M. No. 15936-CII of 2022

Attar Singh son of Shri Gutia, aged about 50 years, resident of Village Gharrot, Tehsil Hathin, District Palwal had received injuries in a motor vehicular accident, which took place on 2.5.2015 in the area of about 1/2 kms ahead of Village Swamika, on account of rash and negligent driving of three wheeler bearing registration No. HR-73-7066 by respondent No. 1 Kailash. He had filed a claim petition before Motor Accident claims Tribunal, Palwal against Kailash driver, Hari Chand, owner and Shri Ram General Insurance Company Limited, Faridabad, insurer of offending three wheeler bearing registration No. HR-73-7066

After contest, the claim petition was accepted vide Award dated 14.9.2016 and compensation of Rs.1,81,900/- with interest at the rate of 7.5% per annum was awarded to the claimant payable by all the three respondents jointly and severally.

The appellant claimant feeling dissatisfied with the Award had

approached this Court bay way of filing an appeal, notice of which was given to the respondent Insurance Company which has put appearance through counsel.

At the request of counsel, the matter was referred to National Lok Adalat and thereafter to Daily Lok Adalat for settlement. However, in the meanwhile appellant had expired so the application has been filed for impleading his LRs, notice of which was given to counsel for the Insurance Company, who states that application be disposed of in accordance with law.

In my considered view, the application calls for acceptance. The same is allowed and applicants Bati Devi, Raj Kumar and Poonam Devi are ordered to be brought on record as legal representatives of deceased Attar Singh. The amended memo of parties filed be taken on record.

FAO No. 4164 of 2017 and
C.M. No. 15939-CII of 2022

This is an application under Order 41 Rule 27 read with Section 151 CPC for producing and placing on record the medical documents of deceased Attar Singh as Annexures A-2 to A-7 with regard to subsequent treatment of deceased Attar Singh.

Notice of this application has also been given to learned counsel for the Insurance Company who states that the claimants shall have to lead evidence to prove these documents and it shall be proper and appropriate if the case is remanded back to the Tribunal for recording the evidence sought to be produced by the claimants and then then the respondents may also produce evidence in rebuttal.

Accordingly, the Award is set aside and the matter is remanded back to Motor Accident Claims Tribunal, Palwal for fresh trial. The

claimants may get the claim petition amended in view of the fact that injured Attar Singh has since expired to which the respondents may file written reply and then fresh issues be framed affording the parties to lead evidence in support of their respective claims. The entire exercise be completed expeditiously since the original petition was filed way back on 30.7.2015. The Tribunal may issue notice to respondents No. 1 and 2 also to procure their presence since they may also be interested in contesting the petition.

On being enquired, learned counsel for the Insurance Company has informed that the Award dated 14.9.2016 has been satisfied. It being so, the amount already paid would not be recovered from the legal representatives of the deceased during pendency of the proceedings after remand. However, that amount would be adjusted towards the compensation which may be awarded vide fresh Award after remand. If original record has been received in this Court then the same be sent back to the Tribunal at the earliest.

The appeal is disposed of.

(H.S. MADAAN)
JUDGE

November 23, 2022

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No