

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

(209)

FAO-1571-2014 (O&M)

Date of Decision : May 12, 2023

Suman

.. Appellant

Versus

Rajender Saini and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Anil Ghanghas, Advocate, for the appellant.

Mr. Paul S. Saini, Advocate, with
Mr. Komal Jit Kaur, Advocate, for respondent No.2

HARSIMRAN SINGH SETHI J. (ORAL)**CM-5266-CII-2014**

As prayed for, the application is allowed.

Delay of 45 days in re-filing the appeal is condoned.

FAO-1571-2014

1. Present appeal has been filed against the Award of the Motor Accident Claims Tribunal, Hisar dated 08.07.2013 by which, the claim petition was dismissed on the ground that the same was filed under Section 166 of the Motor Vehicle Act, 1988 and the involvement of the offending vehicle could not be proved.

2. At the outset, learned counsel for the appellant submits that as the grant of compensation under the Motor Vehicle Act is a beneficial legislation, the Motor Accident Claims Tribunal on its own should have converted the claim petition under Section 166 of Motor Vehicle Act to Section 163-A of the Motor Vehicle Act rather than dismissing the same

and should have adjudicated the claim of the claimants under the said section.

3. Learned counsel appearing on behalf of respondent No.2 submits that the claimants should have been vigilant enough to claim the benefit under the appropriate provision of law but once they have not claimed any benefit under Section 163-A of the Motor Vehicle Act, the Tribunal was well justified in declining the claim as raised under Section 166 of the Motor Vehicle Act.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. It is not in dispute that there was an accident. It is also not in dispute that two persons lost their lives in the said accident. The Tribunal should have been compassionate enough to give a chance to the claimants to convert their claim under Section 166 of the Motor Vehicle Act to be a claim under Section 163-A of the said Act. Nothing has come on record that the said opportunity was even given to the claimants. That being so, the Award is set aside and the case is remanded back to the Tribunal to deal the said claim to be a claim under Section 163-A of the Motor Vehicle Act, by giving due opportunity to both the parties to present their case in accordance with law.

6. The present appeal is disposed of in above terms.

May 12, 2023

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No