

CM-5623-CII to CM-5625-CII-2019 in/& -1- (2023:PHHC:075202)
X-Objection-49-2019 in/&
FAO-7453-2016

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

104+237

CM-5623-CII to CM-5625-CII-2019 in/&
X-Objection-49-2019 in/&
FAO-7453-2016
Date of Decision :24.05.2023

Dikshant

..Appellant

Versus

Eklavya Upadhiya and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Shilak Ram Hooda, Advocate for the appellant.

Mr. Surinder Singh, Advocate for
cross-objectors/respondents No.1 & 2.

Mr. R.C. Gupta, Advocate for respondent No.3.

* * *

Harsimran Singh Sethi, J. (Oral)

Present appeal has been filed against the award dated 09.08.2016 of the Motor Accident Claims Tribunal, Sonipat by which, though, the tribunal has come to the conclusion that there was an accident involving vehicle No.HR-10P-6493 on 05.11.2013 but proof that respondent No.1 was driving the said vehicle has not been produced due to which, the claim for compensation has not been allowed.

Learned counsel for the appellant submits that at the time of accident, respondent No.1 as well as his father were occupants in the

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offending vehicle and in case the minor was not driving the offending vehicle, then the father must have driven the said vehicle, hence the claimant, who has actually suffered injuries cannot be left without compensation. Learned counsel for the appellant further submits that the award of the tribunal may kindly be set aside and the claim petition be remanded back to the tribunal for fresh decision by allowing the appellant to implead the father of respondent No.1, who was stated to be driving the said offending vehicle.

Learned counsel for the respondents raises no objection for the grant of said prayer of the learned counsel for the appellant.

Keeping in view the above, award dated 09.08.2016 of the Motor Accident Claims Tribunal, Sonipat is set aside and the claim petition is remanded back to the Motor Accident Claims Tribunal, Sonipat for fresh adjudication.

Further, the appellant will be at liberty to implead the father of respondent No.1 so as to raise claim that he was the driver of the offending vehicle for the consideration of the tribunal. It may be noticed that respondents will be given due opportunity to defend themselves even qua the said allegation.

Present appeal stands disposed of in above terms.

CM-5623-CII-2019

Present application has been filed for condonation of delay of 45 days in re-filing the X-objections.

Keeping in view the averments made in the application, which are duly supported by affidavit, application is allowed. Delay of 45 days in

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re-filing the X-objections is condoned.

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Keeping in view the order passed in the main appeal, cross-objections as well as civil miscellaneous applications are also disposed of.

May 24, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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