

CM-7001-CII-2023 in/&
FAO-760-2023

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2023:PHHC:057423

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-7001-CII-2023 in/&
FAO-760-2023
Date of Decision :24.04.2023

The New India Assurance Company Ltd.

....Appellant

Versus

Meera Devi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amit Kumar Goyal, Advocate for the appellant.

* * *

Harsimran Singh Sethi, J. (Oral)

CM-7001-CII-2023

Present application has been filed for recalling the order dated 12.04.2023 passed by this Court by which, the main appeal was dismissed for non-prosecution.

Keeping in view the averments made in the application, which are duly supported by an affidavit, application is allowed. Order dated 12.04.2023 passed by this Court is recalled and the main appeal is ordered to be restored to its original number and status and is taken up for hearing today itself.

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Learned counsel for appellant-Insurance company argues that in the present case, the complainant i.e. author of the FIR on whose statement the criminal proceedings were initiated, was not examined hence,

finding of the tribunal that vehicle in question i.e. bus bearing registration HR-55-AD-9323 was involved in the accident which resulted in the death of Kalu Ram, was not correct.

Learned counsel for the appellant further argues that there was no evidence on record to the effect that vehicle in question i.e. the bus was the offending vehicle so as to make the Insurance company liable .

The said argument has already been considered by the tribunal while passing the award and rejected. Arguments raised cannot be accepted especially, when driver of the offending vehicle namely, Krishan Singh never stepped into the witness box to deny that he was driver of the vehicle and that same has not met with an accident as being claimed . Once, driver of the vehicle has not come forward to deny the assertion that vehicle bearing registration No. HR-55-AD-9323 being driven by Krishan Singh i.e. respondent No.1 in the claim petition and was the offending vehicle, it cannot be said that vehicle in question was not involved in the accident.

Moreover, Motor Accident Claims Tribunal is to decide the case on the basis of the evidence which has come on record. The strict nature of evidence as required in the criminal proceeding is not required in the cases of motor accidents to reach a conclusion. In the facts and circumstances of the present case, an FIR has been registered in respect of the accident, in which Kalu Ram lost his life and it is also a conceded fact that said vehicle has been mentioned in the criminal proceedings as offending vehicle and the driver Krishan Singh is being proceeded against.

Keeping in view the facts and circumstances which are already on record, it cannot be said that findings recorded by the tribunal are perverse in any manner.

Learned counsel for the appellant submits that an application for leading additional evidence was also filed before the tribunal , which was dismissed by the tribunal on 17.08.2022. Learned counsel for the appellant submits that the said decision of the Motor Accident Claims Tribunal not to allow the application for leading additional evidence has caused prejudice to the appellant.

It may be noticed that the only evidence which the appellant wanted to bring on record was the letter written by the owner of the vehicle to the police authorities mentioning that his vehicle was not involved in the accident. The said application has no relevance in the facts and circumstances of the present case for the reason that the driver who was allegedly driving the vehicle at the time of the accident in question never stepped into the witness box to deny the fact that the said vehicle was involved in the accident in question hence, dismissal of the application for leading additional evidence by the tribunal cannot be treated as arbitrary or illegal in any manner or has caused any prejudice to the appellant.

No other argument has been raised.

Keeping in view the facts and circumstances recorded hereinbefore, no ground is made out for interference by this Court and the appeal is accordingly dismissed.

April 24, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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