



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-3897-2004 (O&M)
DECIDED ON: 23.09.2024

BIJENDER @ BALLU **.....APPELLANT**

VERSUS

NAHNA AND OTHERS **.....RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: None for the appellant.

Mr. Sahej Mahajan, Advocate,
for respondent No.3 – Insurance company.

SANJAY VASHISTH, J (ORAL)

1. Present appeal has been filed by the injured – appellant namely Bijender @ Ballu, against the award dated 02.01.2004, passed by learned Motor Accident Claims Tribunal, Sonapat, in MACT case No.67 dated 09.05.2002, whereby the claim petition filed under Section 166 of the Motor Vehicles Act, has been dismissed.
2. As per the pleadings, case of the appellant (hereinafter referred to as ‘the claimant’) is that he was travelling in one Tata Sumo bearing registration No.HR-26-9609, and the same was driven rashly and negligently by its driver (respondent No.1). The vehicle Tata Sumo was out of control and the same turned turtle. Due to the said accident on 13.03.2002, claimant suffered multiple injuries and was also permanently

disabled by his left hand. One DDR No.36 dated 13.03.2002 was also registered by the police. However, no FIR was got registered.

3. After inviting pleadings from the respective parties, vide order dated 10.01.2003, learned Tribunal has framed following issues:-

1. *“Whether the petitioner suffered injuries in the motor vehicle accident caused due to rash and negligent driving of TATA Sumo No.HR-26-9609, owned by respondent No.2, insured with respondent No.3, and being driven by respondent No.1 on 13.03.2002 in the area of Thana Kalan? OPP*
2. *If issue No.1 is proved, to what amount of compensation, the petitioner is entitled, if so and from who? OPP*
3. *Whether respondent No.1 was not holding a valid driving licence on the date of accident, if so its effect? OPR.3.*
4. *Relief.”*

4. Claim petition has been dismissed by learned Tribunal, primarily for the reason that the claimant failed to lead any evidence, despite granting of numerous opportunities, which resulted into the closing of the opportunity of evidence by the Court on 29.10.2003. Even, the application for recalling of the said order was also dismissed. Thus, there being no evidence, learned Tribunal was constrained to dismiss the claim petition, as per the findings recorded in paragraph No.7 of its award.

5. Today, there is no representation on behalf of the appellant to assist the Court.

6. Faced with the situation, this Court has no other option, except to dismiss the present appeal in default.
7. Accordingly, present appeal stands dismissed in default.
8. However, in case, any substantive issue still exists along with cause of action, requiring its adjudication; liberty is granted to the appellant to move an appropriate application for seeking revival of the present appeal, within eight weeks from today.
9. It is clarified that if any such application is filed for seeking revival of the appeal by the appellant, an advance copy of the application would also be delivered to the opposite counsel i.e. respondent(s), and in case, appeal is revived for its disposal on merits, for no reason, except for the exceptional circumstances, hearing of the appeal would be deferred. Therefore, both the sides should remain present and ready for the purpose of addressing the final arguments.
10. Registry is directed to forward copy of the today’s order at the address of the appellant mentioned in the appeal.

23.09.2024

Lavisha

(SANJAY VASHISTH)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No