

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2234 of 2021 (O&M)
Date of Order:01.05.2024

Hanis @ Kunni @ Manish and another

.Petitioners

Versus

Nurjhan and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.C.Shahpuri, Advocate
for the petitioners.

Ms. Garima Chaudhary, Advocate
for respondent no.1.

Mr. Pradeep Kumar, Advocate
for respondent no.3.

ANIL KSHETARPAL, J

1. This revision petition has been filed by the owner and the driver of offending vehicle No.HR-02X-9534 against the dismissal of their application under Order IX Rule 13 CPC by the Motor Accident Claims Tribunal (hereinafter referred to as 'the Tribunal'). The claimants filed a petition under Section 166 of the Motor Vehicle Act, 1988, claiming that Sh. Sajid died in an accident caused by vehicle bearing registration No.HR-02X-9534.

2. On notice issued, the petitioners, who are respondents no.1 and 2, before the Tribunal, entered appearance along with the Insurance Company and filed the written statement contesting the claim petition. Their counsel continued to appear in the case, however, he stopped appearing with effect from 23.05.2017. On the same day, the court proceeded ex-parte against them. Subsequently, the award was passed in favour of the

claimants and against the petitioners, who were respondents no.1 and 2 while absolving the Insurance Company. Subsequently, the petitioners filed an application under Order IX Rule 13 CPC to set aside the ex-parte award.

3. Before the Tribunal, the learned counsel representing the claimants gave no objection on the application itself. The Insurance Company contested the application which in its dismissal.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

5. The learned counsel representing the petitioners submits that the petitioners have been held liable to pay the compensation although their vehicle was insured and the petitioner, namely, Hanis alias Kunni alias Manish possessed a valid driving licence. He submits that the petitioners provided all the relevant documents to their counsel, however, he failed to produce in Court.

6. Per contra, the learned counsel representing the Insurance Company submits that the application was filed after a long delay as mentioned in paragraph 7 of the written statement and therefore, the court should not interfere.

7. In such cases, the courts are required to make efforts to ensure that the claimants are able to get compensation expeditiously. Probably the claimants have given no objection to setting aside ex-parte award only because it will be very difficult to recover the amount from the petitioners. On the other hand, the learned counsel representing the Insurance Company would not suffer any prejudice if the petitioners are permitted to produce their evidence.

8. In these cases, the court is required to take a holistic view of

the matter. Though, there is a delay on the part of the petitioners to file an application to set aside the ex-parte award, however, the claimants have no objection.

9. Keeping in view the aforesaid facts and discussion, the revision petition is allowed. The impugned order dated 23.08.2021, is set aside while directing the Tribunal to decide the claim petition afresh within a period of two months from the date the parties enter appearance before the Tribunal. The Tribunal shall proceed with the case on day to day basis.

10. The parties through their counsel are directed to appear before the Tribunal, on 28.05.2024.

11. All the pending miscellaneous applications, if any, are also disposed of.

May 01, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	:YES/NO
Whether reportable	:YES/NO