



149

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

FAO-1371-2024 (O&M)

Date of Decision : 26.08.2025

EXECUTIVE ENGINEER, MUNICIPAL
CORPORATION, LUDHIANA AND ANR.

... Appellants

VERSUS

PREMO AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Abhilaksh Gaind, Advocate for the appellants.
(joined through hybrid mode)

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the appellants challenging the order dated 23.10.2023 passed by the learned Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as the 'Tribunal') whereby the application under Order IX Rule 13 CPC filed by the appellants for setting aside the *ex parte* award dated 15.01.2019 was dismissed.

2. Brief facts relevant to the present *lis* are that the appellants herein were duly represented by counsel who continued to appear in the matter and also filed written statement. However, on 29.11.2018 since respondents No.1, 2 and 4 in the claim petition did not appear, they were proceeded against *ex parte*. Subsequently, an application was filed by respondent No.4 in the claim petition for setting aside the *ex parte* proceedings which was allowed vide order dated 21.12.2018. The appellants herein chose not to file any application for setting aside the *ex parte* order. An *ex parte* award came to be passed on

15.01.2019. It was only in the year 2020 that an application was filed under Order IX Rule 13 CPC for setting aside the *ex parte* award dated 15.01.2019. It was averred in the application that the appellants had engaged counsel, namely, Patwinder Singh Grewal, Advocate who filed his power of attorney on 03.11.2018 however, he failed to appear. The application was contested by the respondents herein. The following issues were framed on the basis of the pleadings of the parties :

1. Whether there are sufficient grounds to set aside the *ex parte* award dated 15.01.2019 passed by this Tribunal and for setting aside *ex parte* order dated 29.11.2018 against applicants/respondents No.1 and 2 ? OPA
2. Whether the application is not maintainable ? OPR
3. Relief.

3. The Tribunal, after going through the evidence led by the parties, dismissed the application under Order IX Rule 13 CPC vide impugned order dated 23.10.2023. Hence, the present appeal by the appellants.

4. Learned counsel for the appellants would contend that the Tribunal has erred in dismissing the application filed by the appellants under Order IX Rule 13 CPC for setting aside the *ex parte* award dated 15.01.2019. It is further the contention that the counsel did not appear and the appellants did not know about the *ex parte* order.

5. Heard.

6. In the present case the Tribunal after going through the evidence led by the parties held that the Law Officer who had been maintaining the

daily diary of the case proceedings was not examined and no such diary was produced on the record though AW-1 in his cross-examination had admitted that an Advocate had been engaged by the appellant-Corporation and the Law Officer was also maintaining a record of the case proceedings. It was also observed that the appellant-Corporation herein had engaged as many as 3 different counsel who participated in the proceedings however on the said date and even thereafter, till the passing of the award, neither the counsel nor the Law Officer appeared. Learned counsel for the appellants has not been able to convince this Court that the absence from the case was not intentional. In the absence of any cogent evidence led by the appellants as to why they did not appear before the Tribunal, no fault can be passed with the impugned order as well as the impugned *ex parte* award.

7. In view of the above, I do not find any merit in the present appeal and the same being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

26.08.2025
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No