

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****241****FAO-8331-2015 (O&M)****Date of Decision : 06.02.2025**

Narinder Singh

....Appellant

VERSUS

Ravinder Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Deepak Arora, Advocate for the appellant.

Brig. B.S. Taunque, Advocate for respondent No.3.
(through hybrid mode)**ALKA SARIN, J. (Oral)**

1. Present appeal has been preferred by the claimant-appellant challenging the award dated 30.10.2013 passed by the Motor Accident Claims Tribunal, Gurdaspur (hereinafter referred to as the 'Tribunal').
2. Learned counsel for the claimant-appellant would contend that the award is liable to be set aside as the claimant-appellant was never given any opportunity to lead his evidence. It is further the contention of learned counsel that both the counsel as well as the claimant-appellant were under the impression that the case had been dismissed in default on 30.10.2013 and the appellant came to know of the same on 20.01.2014 and subsequently filed an application for restoration.
3. *Per contra* learned counsel for respondent No.3 would contend that in the present case there is no order dated 30.10.2013 on the record

dismissing the case in default as is alleged. Infact, the case was dismissed on merits after hearing counsel for the claimant-appellant, namely, Mr. Ranjan Chohan, Advocate.

4. Heard.

5. In the present case the Tribunal, on the basis of the evidence led by the parties, dismissed the claim petition on merits. The only person examined by the claimant-appellant was PW-1 who admitted that he did not see the accident nor did he see the car involved in the accident nor he knew the registration number. He also did not know who was riding the motorcycle at the time of the accident nor the registration number of the motorcycle. In his cross-examination he stated that he was in possession of the medical record but he had not produced the same. The claimant-appellant, who is the injured in the present case, did not step into the witness-box. In the absence of any evidence, the claim petition was rightly dismissed. The argument of learned counsel for the claimant-appellant that the counsel and the claimant-appellant were under the impression that the case had been dismissed in default on 30.10.2013 and hence they also filed an application for restoration of the same and hence the matter should be remanded for a decision afresh is noticed only to be rejected. There is no order on the record of dismissal of the claim petition in default. Rather, the case was decided on merits in the presence of the counsel for the claimant-appellant and was dismissed in the absence of any evidence led by the claimant-appellant. Having failed to lead any evidence, a clever tactic was adopted by filing an application for restoration by claiming that they were

under the impression that the claim petition was dismissed in default on 30.10.2013. It is not understandable as to how any counsel could on the basis of assumptions have filed the application for restoration without even checking if there was any order dismissing the claim petition in default.

6. In view of the above, the present appeal is dismissed. Pending applications, if any, also stand disposed off.

06.02.2025

jk

**(ALKA SARIN)
JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO