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

FAO-5921-2011 (O&M)

Date of Decision : 20.02.2026

AMRIK SINGH

.... Appellant

VERSUS

MAYA DEVI & ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajiv Sharma (Hissarwale), Advocate for the appellant.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the appellant aggrieved by the award passed by the Motor Accident Claims Tribunal, Gurgaon dated 18.01.2011. The only ground of challenge in the present appeal is that a second claim petition was barred by the principles of *res judicata* as earlier the claimants had filed a claim petition before the Motor Accident Claims Tribunal, Allahabad which was dismissed as not pressed vide order dated 09.07.2009 and since no liberty was sought, therefore, it is pleaded that the second petition was barred by the principles of *res judicata*.

2. Since the factum of the accident is not in dispute, the facts, as recorded in the impugned award passed by the Tribunal, are not being adverted to herein for the sake of brevity.

3. The learned counsel for the appellant has contended that the second claim petition was barred by the principles of *res judicata* as no liberty was sought when the earlier claim petition was dismissed as not pressed. In

support of his arguments, learned counsel has relied upon the judgment in the case of **New India Assurance Company vs. Mohinder Kaur [2016 (2) PLR 395]** and the order dated 16.09.2009 passed by this Court in **FAO-4180-2008 [Ram Singh & Ors. vs. Babu Lal & Ors.]**.

4. Heard.

5. In the present case the only argument raised by the learned counsel for the appellant is that the second claim petition was barred by the principles of *res judicata* as no liberty was sought while getting the first one dismissed as not pressed. The judgment relied upon by the learned counsel for the appellant in the case of **Mohinder Kaur** (supra) would not come to his aid as the said judgment was passed under the Workmen's Compensation Act, 1923. The order dated 16.09.2009 passed by this Court in **Ram Singh's** case (supra), relied upon by the learned counsel for the appellant, does not lay down any law.

6. This Court in the case of **Suresh Devi & Ors. vs. Jasbir Singh & Ors. [2013 (15) RCR (Civil) 456]** specifically dealt with the maintainability of a second claim petition when the first claim petition was dismissed otherwise than on merits. In the said case, while relying upon the orders passed in the cases of **Vimla Devi & Anr. vs. Rajendra Kumar & Ors. [2004 ACJ 504]**, **Dinesh Kumar vs. Sunil Kumar [Writ Petition No.2021 of 2008 decided on 06.11.2012]**, **Smt. Kuldeep Kaur & Ors. vs. Kanwaldeep Singh [FAO-1977-2007 decided on 10.11.2010]** and **Bimla Devi & Anr. vs. Raj Bala & Ors. [CR-4995-2008 decided on 10.03.2009]**, it was held that the second claim petition would not be barred irrespective of

whether the first claim petition was withdrawn or was dismissed in default as it was decided otherwise than on merits. Yet again this Court in the case of **Subhadra Devi & Ors. vs. Surender Kumar & Ors. [2024 (2) Law Herald 1303]** has taken a similar view.

7. In the present case the claim petition was dismissed as not pressed. Thereafter, the second claim petition was filed before the Motor Accident Claims Tribunal, Gurgaon. The argument of the learned counsel for the appellant that the same would be barred by the principles of *res judicata* cannot be accepted. No specific issue was framed in this regard nor claimed by the insurance company at any stage before the Tribunal. The Motor Vehicles Act, 1988 is a welfare piece of legislation. Keeping in view the totality of facts and the law as discussed above, wherein a matter is dismissed in default or is withdrawn without seeking any liberty to file afresh, the matter would be deemed to have been disposed off otherwise than on merits.

8. Keeping in view the decision in the case of **Subhadra Devi** (supra), this Court is of the view that the second claim petition would not be barred by the principles of *res judicata* especially when the first claim petition was not decided on merits.

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

20.02.2026

Aman Jain

NOTE:

(ALKA SARIN)

JUDGE

Whether speaking/non-speaking: Speaking

Whether reportable: Yes/No