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High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 6972 of 2009

Ajeet Singh	APPELLANT
Vs	
Kulwant Singh and Others	RESPONDENT

Date of Decision: Nov. 16, 2010

Acts Referred:

- Motor Vehicles Act, 1988 - Section 166

Hon'ble Judges: Hemant Gupta, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Hemant Gupta, J.
The Petitioner filed a petition u/s 166 of the Motor Vehicle Act, 1988 claiming compensation on account of death of Vijay Singh. In the said petition, Respondent Nos. 1 and 2 i.e., owner and Driver could not be served by the Petitioner. Therefore, the Tribunal passed an order on 8.11.2002 dismissing the claim petition qua the said Respondents. The case was adjourned for filing written statement by Respondent No. 3.

2. Subsequently, the petition was dismissed for non prosecution against the said Respondent as well. An application for restoration of the claim application was dismissed by the Tribunal on 8.2.2005 but said order was set aside by this Court in Civil Revision No. 3778 of 2008 on 2.12.2008. After restoration of the case, the Petitioner has challenged the order dated 8.11.2002 whereby the claim petition has been dismissed qua Respondent Nos. 1 and 2.

3. Learned Counsel for the Petitioner contends that the presence of Respondent No. 1 and 2 is just and necessary for decision of the claim application as in the absence of said parties, the Insurance Company cannot be saddled with the liability to pay compensation.

4. After going through the order dated 8.11.2002,I find that the learned Tribunal has committed material illegality and irregularity while dismissing the petition qua Respondent Nos. 1 and 2 for the reason that the said Respondents could not be served. The Petitioner is claiming compensation on account of death of his brother as a surviving legal representative of the deceased. Such claim application should not have been dismissed without securing the presence of Respondent Nos. 1 and 2. It is not always possible for the claimant to furnish the correct addresses of the owner and driver as the addresses available on the registration certificate and of driving licence are the only information which can be furnished by the claimant. If the owner and driver are not being served on last known addresses, the Tribunal was required to secure the presence of the said Respondents by substituted service in an appropriate manner. However, dismissal of the claim application only for the reason that driver and the owner have not been served, causes serious injustice to the claimant.

5. In view of the aforesaid facts, order passed by the Tribunal on 8.11.2002 is set aside. The Tribunal is directed to secure the presence of Respondent Nos. 1 and 2 on the last known addresses. Failing much attempt, the Tribunal shall cause to serve the said Respondents by substituted service as it may consider in the appropriate.

6. Civil Revision petition stands disposed of accordingly.