IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 1188 of 2015
Date of Decision : February 20th, 2015

The Oriental Insurance Company Ltd.
.... Petitioner

Versus

Mrs. Neelam and others .... Respondents

CORAM : HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON

Present Mr. Ram Avtar, Advocate,
for the petitioner.

Dr. BHARAT BHUSHAN PARSOON, J.

Order dated 28.1.2015 [Annexure P/2] of Shri Ravi Kumar Sondhi, learned Motor Accidents Claims Tribunal, Panchkula [hereinafter referred to as "the Tribunal"] whereby application of respondent No. 3 Insurance Company, petitioner herein, for summoning of respondents No.1 and 2, [respondents No. 6 and 7 herein], being driver and owner respectively of the alleged offending truck, as its witnesses, has been dismissed, is under challenge in this revision petition invoking supervisory powers of this Court under Article 227 of the Constitution of India.

2. It is claimed that since the petitioner – Insurance Company is to rebut the case of the claimants [respondents No. 1 to 5 herein], there is no other mode to prove their case except calling for the driver and owner of the offending vehicle.

3. When questioned, counsel for the petitioner – Insurer has not been able to convince this Court as to how parties to the claim petition having adverse claim against the Insurance Company can be called by it as its witnesses, to prove its case. If the Insurance Company is to prove driving licence, route permit or Fitness Certificate etc., there are other

modes as well to prove the same. It is a basic proposition of law that an adversary cannot be brought to the witness box at the calling of other party having adverse interest in the litigation.

4. Looking the matter from yet another angle, it is evident that owner, Surinder Singh [respondent no.7 herein] and driver, Gurmeet Singh, [respondent No. 6 herein] of the offending vehicle, who are sought to be produced as witnesses by the Insurance Company, are parties to the claim petition as respondents No. 1 and 2 before the Tribunal and have already been proceeded against *ex-parte*. When they have not come forward to contest the petition against them, how their attendance would be procured as witness by their adversary, is another question which remains unanswered by the petitioner-Insurance Company.

5. In a brief, but terse and telling order, which is impugned in this petition, learned Tribunal has made these aspects clear and transparent, while dismissing the application of the petitioner Insurance Company. The order is not only very well written showing legal acumen and maturity, but also takes into account all the attending facts and circumstances.

6. In fact, no infirmity either on facts or law could be pointed out by learned counsel for the petitioner in the impugned order.

7. No merit. Dismissed in *limine.*

(Dr. BHARAT BHUSHAN PARSOON)
JUDGE

February 20th, 2015
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1.Whether Reporters of local papers may be allowed to see the judgment?
2.Whether to be referred to the Reporters or not?
3.Whether the judgment should be reported in the Digest?