

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

CR No.3553 of 2013 (O&M)

Date of decision : 19.11.2015

Anil Kumar

...Petitioner

Versus

Roop Kumar Sharma and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Naveen Daryal, Advocate for the petitioner.

Mr. Briz Mohan, Advocate for
Mr. Amandeep Singh, Advocate for respondent No.1.

Mr. R.C. Gupta, Advocate for NIA-respondent No.2.

AMIT RAWAL, J. (Oral)

The present revision petition is against the order dated 16.04.2013, whereby application for setting aside the ex parte award dated 22.10.2012 and order dated 27.08.2012, whereby petitioner was proceeded ex parte, has been dismissed.

The case of the petitioner is that that he had engaged Mr. Atul Mittal, Advocate who did not appear before the Tribunal on every date of hearing and resultantly on 27.08.2012 owner of the bus/petitioner was proceeded ex parte neither the Counsel had passed instruction vis-a-vis his

non appearance. It is only on receipt of the notice of the execution petition, the petitioner came to know about the ex parte award dated 27.08.2012. MACT had dismissed the application on the ground that petitioner has not made any complaint against the Lawyer who has not appeared on his behalf.

I have gone through the impugned order and of the opinion that impugned order is not sustainable. The Hon'ble Supreme Court in *Himalayan Cooperative Group Housing Society Vs. Balwan Singh 2015(5) JT 624*, held that relationship between client and Lawyer is in fiduciary capacity. Lawyer has to Act on client's instructions and thus cannot remain absent and in case he intends to remain absent he must inform in writing or through any other mode to his client. In this case, in my view, Lawyer has not been diligent in informing client about non-appearance.

Accordingly, in view of what has been observed above, impugned order dated 16.04.2013 is set aside. The application for setting aside the ex parte award dated 22.10.2012 and order dated 27.08.2012, is also allowed. Ex parte award dated 22.10.2012 is set aside.

Parties through their counsel are directed to appear before MACT, Kurukshetra and MACT after giving due notice to the parties to the lis shall give opportunity to the petitioner to file written statement and conclude the trial as expeditiously as possible within a period of one year from the date of receipt of certified copy of this order.

Revision petition stands allowed.

19.11.2015

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**(AMIT RAWAL)
JUDGE**