

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

Civil Revision No. 4853 of 2015 (O&M)

Date of decision:- 20.08.2015

Standard Motors, Panchkula Road, Ramgarh

...Petitioner

Versus

Anil Kumar & others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Ashish Gupta, Advocate
for the petitioner.

RITU BAHRI J.

This petition under Article 227 of the Constitution of India is for setting aside order dated 03.07.2015 passed by learned Motor Accident Claims Tribunal, Ambala (for short 'the Tribunal') whereby an application filed by the petitioner for deleting his name from array of respondents in claim petition has been declined and the amendment application filed by respondent No. 2 to amend his written statement was allowed.

Brief facts of the case are that on 21.03.2013, an accident took place involving use of motorcycle bearing registration No. HR-03H-9983 being driven by respondent No. 1 Anil Kumar, which resulted in to the death of Balram alias Ballu. The parents of the deceased filed a claim petition under Section 163-A of the Motor

Vehicles Act seeking compensation on account of death of their son.

On notice, respondent No. 2 Tilak Raj in his written statement took a stand that he was neither owner nor in use/possession of the offending motorcycle, since he had sold the same to one Anil Kumar on 16.04.2012, regarding he had executed an affidavit thereby taking upon himself all the liabilities, which may arise on or after 16.04.2012. Later on, Tilak Raj moved an application for impleadment of the petitioner as party to the petition on the ground that he had purchased motorcycle by way of exchange on 27.12.2009 i.e Bazaz Discover Engine DSG-BNK-69840, Chasis No. MD2 DSDS22-NCK 86379 and in lieu of motorcycle, respondent No. 2 had purchased the motorcycle bearing Chasis No. MD-2DSPA-22500H-26890 Engine No. JBM BSJ 27397 DSI Model-2007, 100 CC Black Blue from the petitioner, vide Bill No. 939 dated 27.12.2009. The application of respondent No. 2 was allowed and the petitioner was impleaded as party to the petition.

Thereafter, the petitioner moved an application dated 04.09.2014 for deleting his name from array of respondents on the ground that the document attached by respondent No. 2 was in fact a challan form, which is generally prepared to get cibil/clearance report of the pre-financed vehicle from the Finance Company before

financing the other vehicle. Respondent No. 2 came to the petitioner on 27.12.2009 to get a new motorcycle financed and the petitioner prepared a challan form, wherein, particulars of the pre-financed vehicle i.e motorcycle No. HR-03H-9983 to get the cibil/clearance report from the Bajaj Auto Finance Ltd, were noted. Thereafter, a new motorcycle Bajaj Discover was financed to respondent No. 2. In his written statement, respondent No. 2 had already admitted that he was owner of the offending motorcycle till 16.04.2012, on which date, he had sold the same to Anil Kumar.

The trial Court after going through the challan (Mark A) came to a conclusion that the petitioner after taking the offending vehicle, adjusted the value of a motorcycle and gave new motorcycle to respondent No. 2 for which Rs.41700/- was charged from him. The petitioner had obtained his signatures at that time on some papers and later on in the year 2012, the petitioner sold this motorcycle to respondent No. 1 by using papers, which were earlier procured from him. Further, in the challan, description of new motorcycle is mentioned i.e Bazaz Discover Engine DSG-BNK-69840, Chasis No. MD2 DSDS22-NCK 86379. Below this description of a new motorcycle, details of an old motorcycle bearing Chasis No. MD-2DSPA-22500H-26890 Engine No. JBM BSJ 27397 DSI Model-2007, 100 CC Black Blue

are disclosed and there is mention of the amount of Rs.41,730/-.

Learned counsel for the petitioner has placed on record copy of the challan (P-6) which shows that at the time of purchase of a new vehicle by respondent No. 2, chasis no and engine no. of old offending motorcycle has been written. The affidavit given by respondent No. 2 (P-7) has been taken by the petitioner at the time of purchasing a new motorcycle by him. All these documents will be considered at the final stage of the trial.

Thus, the order dated 03.07.2015 passed by the Tribunal dismissing the two applications filed by the petitioner for deleting his name from array of respondents in claim petition has and to cross examine respondent No. 2 under Section 165 of the Evidence Act and further allowing the amendment application filed by respondent No. 2 to amend his written statement, does not require any interference by this Court.

The revision petition is dismissed, being devoid of merit.

August 20, 2015

G Arora

(**RITU BAHRI**)
JUDGE