

IN THE HIGH COURT OF PUNJAB & HARYANA HIGH COURT
AT CHANDIGARH

Civil Revision No.7535 of 2014

Date of Decision: 22.01.2015

The New India Assurance Company Ltd.

..... Petitioner

Vs.

Raj Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. D.K.Prajapati, Advocate for
Mr. Raghujeet Singh Madan, Advocate for the petitioner.

Mr. Jagram Singh Cooner, Advocate for respondent No.1/claimant.

Mr. Balraj Gujjar, Advocate for respondent Nos.2 and 3/
driver and owner of the offending vehicle.

JASWANT SINGH, J. (ORAL)

Insurance Company/respondent No.3 is in revision aggrieved against the order dated 10.10.2014 (P-7), passed by the learned M.A.C.T., Panchkula, whereby its evidence has been closed by order.

It is submitted that only the official witness from the Office of Licensing Authority, Mathura to prove the genuineness of the driving licence of the driver remains to be examined, who on deposit of diet money etc. stood duly served, however, due to his non-appearance, the impugned order was passed. It is further contended that the Insurance Company had no control over the said official witness and, therefore, cannot be construed as negligent in adducing their evidence. Although it is conceded that more than sufficient opportunities have been availed, however, one last opportunity at their own risk and responsibility to lead their evidence qua the said official is prayed for subject to adequate compensation to the respondent No.1/ claimant.

Upon notice, learned Counsel for respondent No.1/claimant has appeared and filed memo of appearance. He does not seriously contest the grant of relief subject to, however, payment of heavy costs for the inconvenience caused to him.

Learned Counsel for respondent Nos.2 and 3 i.e. Driver and Owner of the offending vehicle, however, opposed such a request.

After hearing learned Counsel for the parties and keeping in view the totality of the circumstances, it is deemed expedient in the interest of justice to grant one final opportunity to the petitioner/Insurance Company to lead their entire evidence at their own risk and responsibility subject to payment of costs.

Accordingly, the revision petition is allowed, impugned order dated 10.10.2014 (P-7) is set aside with the direction that the learned Court below shall grant one final opportunity to the petitioner/Insurance Company to lead their entire evidence at their own risk and responsibility subject to payment of costs of ₹ 20,000/- as costs to be paid to respondent No.1/claimant Raj Kumar.

A demand draft bearing No.637227 dated 27.12.2014 of HDFC Bank in favour of the claimant has been handed over to learned Counsel for respondent No.1/claimant and the same has been accepted towards payment of such costs of ₹ 20,000/-. It is further directed that another sum of ₹ 10,000/- shall be paid to the District Legal Services Authority, Panchkula as a condition precedent for leading of the such evidence on a date to be fixed by the learned Court below.

Disposed of in the above terms.

January 22, 2015
Gagan

(JASWANT SINGH)
JUDGE