

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No. 967 of 2015

DATE OF DECISION : November 17, 2015

New India Assurance Company

..... PETITIONER(S)

VERSUS

Mrs. Sarita Devi & ors.

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

**Present: Mr. Vinod Chaudhri, Advocate, for the petitioner.
None for the respondents.**

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1. Whether Reporters of local newspapers may be allowed to see the judgment? YES/NO

2. To be referred to the Reporter or not? YES/NO

3. Whether the judgment should be reported in the digest? YES/NO

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ARUN PALLI, J. (Oral)

Vide order being assailed, dated 29.01.2015, rendered by Motor Accident Claims Tribunal, Panchkula, evidence of the petitioner i.e. New India Assurance Company Limited, was closed by order and the application moved by the petitioner for appointment of a Commissioner for verification of the Driving

licence of Subhash Chander, was dismissed.

This Court, on 24.02.2015, while issuing notice of motion, had passed the following order:-

“Contents that the claim petition was filed on 14.5.2014 and issues were framed on 11.8.2014. The claimants concluded their evidence on 20.11.2014 and thereafter on 4.12.2014 Mr. Sanjeev Kumar Arora, Advocate was engaged for the petitioner-insurance company. After examining the driver, the owner and the driver closed their evidence on said date. The case was thereafter adjourned to 24.12.2014 and on account of no evidence being presented, the case was adjourned to 20.1.2015. On 20.1.2015, the case was adjourned to 29.1.2015 and on that date, the impugned order was passed closing the evidence of the petitioner-insurance company and also dismissing the application for appointing Commissioner for verifying the driving licence of Subhash Chander, driver. It is submitted that mother of the defending counsel had fallen critically ill and thereafter had expired, therefore, he was not in a position to attend to the proceedings in a proper manner.

Notice of motion to respondents no.1 to 5 only for 27.4.2015.

In the meantime, final order shall not be passed by the Tribunal.

Liberty is also granted to serve respondents no.1 to 5 through Mr. Lalit Gupta, Advocate at Panchkula in terms of the provisions of Order 3 Rule 3 (1) read with Order 41 Rule 14(2) CPC as amended by this Court which permits service through counsel where suits are pending.”

Despite service, none has chosen to cause appearance and contest the petition.

Undoubtedly, the petitioner has been negligent and remiss in pursuing its cause. But it shall also be true to say that, in case, the petitioner is not granted one effective opportunity to lead and conclude its evidence, and get a Commissioner appointed for verification of Driving Licence, it shall suffer an incalculable loss, which might result in miscarriage of justice. And as regards the inconvenience and delay caused to the respondents/claimants, they could be compensated by awarding suitable costs.

That being so, the order dated 29.01.2015, is set aside and the revision petition is disposed of, in the following terms:-

1. petitioner shall be granted one effective opportunity to lead and conclude its evidence on the date that shall be fixed by the Tribunal in this regard.
2. the Tribunal shall appoint a Commissioner for verification of the Driving Licence being propounded by respondent No.6-Subhash Chander, and an appropriate order in this regard shall be passed by the Tribunal.
3. in case, the petitioner fails to lead and conclude its entire evidence, as shall be scheduled by the Tribunal, its evidence would be deemed to have been closed and no further adjournment shall be granted.
4. this, however, shall be subject to payment of

₹20,000/- as costs, as suggested by the learned
counsel, which shall be a condition precedent.

NOVEMBER 17, 2015
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(ARUN PALLI)
JUDGE