

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

**FAO No. 3444 of 2003 (O & M)
Date of decision : 27.11.2015**

Suresh Kumar

.....Appellant

v.

Krishan and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMENDRA JAIN

Present : Mr. Sagar Aggarwal, Advocate, for the appellant

Mr. Sanjiv Pabbi, Advocate, for the respondent

Ramendra Jain, J.

By way of an application under Order 41 Rule 27 read with Section 151 of the CPC, the applicant-appellant has sought production of Annexures P-1 to P-25 by way of additional evidence.

It is averred that the above documents were handed over by the appellant to his counsel before the learned Tribunal, but inadvertently he did not produce the same on record. The above documents are very essential to correlate the post-treatment of the applicant with the injuries suffered by him in the impugned accident. The application is supported by an affidavit.

Respondent No.3 has contested the application by filing reply.

Heard.

By this time, it is well settled that no one should be non suited on technical grounds. The applicant cannot be condemned for the lapse of his counsel before the learned Tribunal. The documents Annexures P-1 to P-25

sought to be produced by way of additional evidence, are very essential for just & effective decision of this case, because the applicant was medico-legally examined by medical officer of the Government Hospital, Sonapat on the date of accident itself, in which, he has shown injury No.2 “complain of losing of urinal right incision adjoining”. The entire post treatment of the applicant with regard to his penis, may co-relate to the above injury. Hence, I allow the application and accordingly, Annexures P-1 to P-25 are hereby permitted to be taken on record and exhibited as Ex.P-107 to P-131.

Since the additional evidence has to be taken into consideration in deciding the claim of the applicant, so, in the interest of justice, it is desirable that the case should be remanded back to the learned Tribunal along with aforesaid documents Ex. P-107 to P-131 to pass a fresh award at the earliest, preferably within three months from the date of receipt of this order, after affording an opportunity of rebuttal to the additional evidence, if any, to the respondent-Insurance Company.

Consequently, the impugned award is hereby set aside.

The appeal is disposed of in above terms.

(RAMENDRA JAIN)
JUDGE

27.11.2015
Ashwani