

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 3423 of 2013(O&M)
Date of decision : March 4, 2016

Jai Karan Sharma

..... Petitioner

Versus

Missal Khan and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Rakesh Dhiman , Advocate
for the petitioner.

Mr. Ashish Gupta, Advocate
for respondent No.1.

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

Amit Rawal, J (oral).
CM No.23650-CII of 2013

This is an application under Order 1 Rule 10 read with Section 151 CPC for impleading the Oriental Insurance Company Ltd. as respondent No.7 duly supported by an affidavit. The Oriental Insurance Co.Ltd. is permitted to be brought on record as mentioned in the application subject to all just exceptions.

Amended Memo of Parties has already been annexed, the same is taken on record.

Registry is directed to place it at an appropriate

place.

The application is disposed of.

CR No. 3423 of 2013(O&M)

The petitioner-owner is aggrieved of the order dated 30.3.2012 whereby application filed under Order 9 Rule 13 CPC for setting aside of the ex-parte award dated 21.2.2009 and ex-parte proceedings 16.2.2008 has been declined on the premise that the service upon the petitioner had been effected through Clerk namely Kuldeep.

Learned counsel appearing on behalf of the petitioner submits that no opportunity had been given to prove that there was no Clerk namely Kuldeep working in the office of the petitioner and application has been dismissed summarily.

He further submits that the amount of compensation has been deposited and since the vehicle which is insured with the Insurance Company bearing No. HR-38-J-4997 whereas the vehicle involved in the accident is bearing No. is HR-38-J-4947. In case, an opportunity is granted, he would prove that the vehicle in question was insured at the time of alleged accident.

Learned counsel appearing on behalf of respondent No.1 submits that much water has flown. The ex-parte award is not permitted to culminate in adjudication and claimants are sufferers and have suffered twice one on account of death of the deceased and as well as at the instance of the owner.

I have heard learned counsel for the parties and appraised the paper book.

The application under Order 9 Rule 13 CPC has been dismissed summarily. No opportunity has been given to the petitioner to show whether there was any Clerk namely Kuldeep.

Be that as it may, once the money has been deposited and as per the statement made by learned counsel for the petitioner and particularly when the vehicle is insured with the Insurance Company, two effective opportunities should be given to the petitioner to lead evidence in support of his defence purported to be filed, with liberty to the respondent to cross examine the same, thereafter the MACT shall decide the same.

In view of the aforementioned facts, the ex-parte award is set aside. The petitioner is granted twenty days time to file the written statement and two effective opportunities should be given to the petitioner to lead evidence subject to payment of costs of ₹5,000/- to the respondents. The court below shall decide claim petition within a period of four months from the date of receipt of certified copy of the order.

The civil revision is allowed.

(AMIT RAWAL)
JUDGE

March 4 , 2016
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