

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

CR No.5008 of 2016(O&M)

Date of decision:8.8.2016

Gopi Ram

....Petitioner

VERSUS

Vidya Devi and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. A.K. Khunger, Advocate for the petitioner.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against order dated 15.07.2016 passed by the Motor Accident Claims Tribunal-II, Fazilka (in short 'the Tribunal') whereby defence of the petitioner has been struck off for want of filing of reply to application filed by the Oriental Insurance Company Ltd. for production of original documents.

Counsel for the petitioner would submit that Gopi Ram – petitioner was not a party in the original claim petition and his name was incorporated in the amended memo of parties for the first time on 16.02.2016. It is further submitted that the case is still pending for effecting service upon respondent No.7 but the Tribunal without appreciating the matter in right perspective has passed the impugned order. It is further submitted that the petitioner may be allowed one opportunity to file reply to the application as well as written statement, to enable him to defend the proceedings.

I have heard counsel for the petitioner, perused the paper-book particularly the order impugned.

A plain reading of the order would make it evident that the Tribunal has passed the order by disregarding the settled principles in law. The defence of the petitioner has been struck off not on account of his failure to file the written statement but due to his failure to file reply to an application filed by the Insurance Company for production of original documents. The non-production of such documents, at best, can lead to an adverse inference at an appropriate stage of the proceedings. This apart, the Court has not adverted to serious consequence, that is likely to ensue owing to striking off defence of the petitioner.

In the given facts and circumstances, the impugned order cannot be allowed to sustain and accordingly set aside. The petitioner is provided one effective opportunity to file reply to the application as well as written statement on the next date, to be fixed by the Tribunal.

Disposed of accordingly.

Before parting with this order, it is clarified that the petition has been disposed of without notice to the respondents/claimants in order to save them from unnecessary expense and inconvenience. However, the respondents would be at liberty to file an appropriate application in case they have any grievance to express.

AUGUST 8, 2016
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no