

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5899 of 2016

Date of Decision:22.11.2016

Neha Yadav

.....Petitioner

Versus

Rohtas and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. S.K. Yadav, Advocate
for the petitioner.

Mr. Naresh Kumar, Advocate
for respondents No.1 and 2.

Mr. Ajay Bishnoi, Advocate for
Mr. Puneet Jain, Advocate
for respondent No.3.

RAJ MOHAN SINGH, J.

[1]. Petitioner has filed this revision petition against the order dated 18.08.2016 passed by Motor Accident Claims, Tribunal, Narnaul (for short "The Tribunal") whereby amendment in claim petition and affidavit was declined. Petitioner sought amendment in para No.15 and in affidavit Ex.PW2/A to the effect that instead of words "coming from Rewari to Narnaul" it

should have been “going to Rewari from Narnaul”. The aforesaid omission was claimed to be typographical error and was sought to be rectified by way of proposed amendment.

[2]. In the claim petition under Section 166 of Motor Vehicles Act, petitioner asserted that her husband was going to Rewari from Narnaul on 14.06.2015, the accident took place at about 4:30 PM. The accident took place due to rash and negligent driving of driver of the offending vehicle i.e. pickup No.HR-66A-5313. FIR No.193 dated 17.07.2015 under Sections 279/337/304-A IPC was registered against the driver of the offending vehicle and the claim petition was filed in the Tribunal for claiming compensation.

[3]. In para No.15 of the claim petition, it was written due to typographical error that husband of the petitioner was going to Narnaul from Rewari instead of mentioning that he was going to Rewari from Narnaul. The aforesaid fact was correctly mentioned in the FIR as well as in the statements of witnesses recorded during course of investigation in the criminal case.

[4]. The amendment was sought on the ground that the amendment is necessary for just decision of the case and will not change the nature of the claim petition. The mistake was claimed to be *bona fide* and the same error crept in the affidavit as well.

[5]. Keeping in view the nature of the amendment, learned counsel for the respondents gave no objection to the aforesaid amendment which was apparent on record in the endorsement recorded towards left side of the vernacular of the application. No reply to the application was filed by either of the respondents. The Tribunal dismissed the application for amendment by discussing the pleadings of the claimants.

[6]. It is mandatory on Court to allow all amendments which are necessary for the purpose of determining the real question in controversy between the parties. At the same time, the Court is not obligated to go into the correctness or falsity of the case of either side in the amendment. The Court should not record any finding on merits of the amendment. The merits of the amendment sought to be incorporated by way of amendment are not to be adjudged at the stage of allowing the prayer of amendment.

[7]. Rule of amendment is essentially a rule of justice, equity and good conscience and it has to be exercised in larger interest of doing complete justice to the parties. All *bona fide* amendments necessary for determining issue between the parties should be allowed. First part of Rule 17 CPC gives direction to the Court, but second part is imperative and enjoins the Court to allow all necessary amendments. Procedural

hurdles ought not to impede the cause of justice in dispensation mechanism.

[8]. It is also a settled principle that the Court would become *functus officio* only after pronouncement of the judgment. All *bona fide* amendments should be incorporated and allowed, the effect of such amendment can be seen at the time of conclusion of the case. All the respondents have given no objection to the amendment in question. Even if, there was some delay in moving the application, the same cannot be held to be sufficient to discard the application as by way of allowing the amendment, final verdict of the case is not going to be pronounced. The effect of amendment is required to be seen at the time of disposal of the case. The only requirement is that if the Court considers that the amendment in question will not give any wrong way to affect the decision of the case of either sides and is just and proper for effective adjudication, the same can be allowed by the Court.

[9]. In view of attending circumstances on record, more particularly the amendment being in consonance with the prosecution story arising from FIR as well as statements recorded by the witnesses during course of investigation, I find that the impugned order dated 18.08.2016 declining amendment of the claim petition is not legally sustainable. This revision

petition is accordingly allowed. Necessary consequences to follow.

22.11.2016
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No