In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 28.3.2016

Civil Revision No. 586 of 2014 (O&M)

M/s J.S.P Services (P) Ltd.
---Petitioner
versus

The Oriental Insurance Company Ltd. & Others
---Respondents

Civil Revision No. 587 of 2014 (O&M)

M/s J.S.P Services (P) Ltd.
---Petitioner
versus

The Oriental Insurance Company Ltd. & Others
---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. J.S. Kundu, Advocate
for the petitioner(s)

***

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

***

Rekha Mittal, J.

This order will dispose of Civil Revision Nos. 586 and 587 of 2014 as common questions of law and fact are involved for adjudication.

Counsel for the petitioner would contend that two claim applications for grant of compensation titled *'Charanjit Singh Vs. Parminder Singh and Others'* M.A.C.T. case No.17 of 2008/2011and '*Karamjit Singh Vs.Parminder Singh and Others'* M.A.C.T. case No.18 of 2008/2011 were decided by the Motor Accident Claims Tribunal, Sirsa, (hereinafter referred to as "the Tribunal") vide judgment dated 29.02.2012 whereby the respondents in the claim applications were held to be jointly and severally liable to pay the amount of compensation awarded in favour of the claimant(s). It is further submitted that Issue No. 3 in regard to the driver of the offending vehicle not having a valid and effective driving license at the time of the accident was framed, onus whereof was placed upon respondent No. 3 i.e. The Oriental Insurance Company Ltd. (hereinafter referred to as "the insurer"). Issue No. 3 was decided against respondent No. 3 having not been pressed by counsel representing the insurer before the Tribunal. It is further argued that later, the insurer filed an application under Section 152 of the Code of Civil Procedure (for short 'CPC') for correction of typographical error /typing mistake in the award and the same has been allowed by the Tribunal vide impugned order dated 30.03.2012 and a relevant extract therefrom reads as follows:-

> *"Shri A.S.Kalra, learned counsel for respondent No. 3 Insurance Company has moved this application under Section 152 of CPC for correction of typographical mistake in the Award dated 29.02.2012. Shri Gaurav Bansal, learned counsel for respondent No. 1 has given no objection of this application is allowed. Heard. It has been stated by Shri A.S. Kalra, appearing on behalf of respondent No. 3 that in this case route permit was not given by the owner of the truck no.*

> *HR-55C/6510 despite of several adjournments. The accident had taken place in Neemach in Madhya Pradesh and hence, the route permit was not given in the court, it was ordered that in such eventuality, the Insurance Company shall pay the amount of compensation to the claimants Charanjit Singh and Karamjit Kaur etc and shall recover the same from respondent No. 2, owner of the truck. Hence, the necessary typographical omission in the Award dated 29.02.2012 be made immediately to the effect that Insurance Company shall pay the amount of compensation to the claimants and shall recover the same from respondents No. 1 and 2 jointly and severally. This application is disposed of accordingly. Paper be tagged with the case file".*

It is vehemently argued that the application filed by the insurer was decided by the Tribunal without notice to the petitioner when on the contrary, the impugned order adversely affect liability of the petitioner. It is further argued that in view of the tenor and manner of the order passed by the Tribunal, the same by no stretch of imagination can be said to be covered within the purview and ambit of Section 152 CPC that provides for correction of clerical or arithmetic mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission at any time by court either of its own motion or on the application of any of the parties.

There is no representation on behalf of the insurer to contest plea of the petitioner that before altering the award dated 29.02.2012 to the detriment of the petitioner whereby the insurer has been held entitled to recover the amount of compensation from the petitioner after discharging liability qua the claimant(s), any notice much less an opportunity of being heard was provided to the petitioner. That being so, the order impugned cannot be allowed to sustain and accordingly set aside. The matter is remitted to the Tribunal for decision of the application under Section 152 CPC afresh after hearing the parties, in accordance with law.

For the reasons aforestated, the petitions are allowed in the aforesaid terms. Nothing stated in this order shall be construed as an expression of opinion on merits of the case.

(Rekha Mittal)
Judge

28.3.2016
PARAMJIT