

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

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CR No.8501 of 2016 (O&M)

Date of Decision: December 23, 2016

SUPREME TRANSPORT SOLUTIONS PVT LTD

-PETITIONER

VS

NATIONAL INSURANCE CO LTD ETC

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.S.S.Siao, Advocate
for the petitioner.

Mr. Sandeep Suri, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner has challenged orders dated 01.12.2016 and
20.10.2016 passed by Civil Judge (Sr. Divn), Ludhiana.

On 20.10.2016, no defendant witness was present. A
request for adjournment was made.

The trial Court noticed that the defendant has already
availed seven effective opportunities to conclude his evidence,
further adjournment was held not justified. The evidence of the
defendant was closed by order.

Petitioner filed a review application to allow him to lead
evidence for cross-examination of the witness whose affidavit
was filed on record. The case was fixed for 02.08.2016 for
evidence of the defendant. Defendant tendered affidavit of Anil
Sharma, Branch Manager, Supreme Transport Solution Pvt.

Ltd. and cross-examination of the witness was deferred at the instance of the plaintiff.

It has been contended that thereafter the witness became ill and so as learned counsel for the defendant. The trial Court dismissed the application for review on the ground that no medical record was submitted by the defendant along with the application.

Following order was passed on 16.12.2016:-

“Learned counsel for the petitioner contends that the defendant remained confined to bed from 16.08.2016 to 22.10.2016 and in the intervening period the case was adjourned for 24.08.2016, 05.09.2016, 09.09.2016, 10.10.2016 and 19.10.2016. The cross-examination of the defendant could not be done because counsel for the defendant also fell ill on 16.10.2016 and he remained confined to bed till 22.10.2016. Learned counsel craves indulgence of the Court for grant of one opportunity subject to payment of adequate cost. Notice of motion for 22.12.2016. Process dasti only.”

It is true that no medical certificate has come forth on record showing ailment of DW1 as well as learned counsel for

the defendant but owing to the fact that affidavit of the witness has already been tendered in evidence, it would be just and appropriate to direct the plaintiff to cross-examine DW1 on the next date of hearing subject to payment of costs of Rs.10,000/-.

At this stage, without meaning anything on merits of the case, this revision petition is disposed of by directing the trial Court to fix the case for cross-examination of DW1 subject to payment of costs.

Payment of costs shall be a condition precedent for granting indulgence by the trial Court.

Trial Court shall direct the plaintiff to cross-examine the witness on the date fixed.

23.12.2016
jjyoti Y.

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No