

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

CR No.1229 of 2017

Date of decision: February 28, 2017

M/s Shri Balaji Express Cargo Service

....Petitioner

Versus

Oriental Insurance Co. Ltd. And another

....Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Avlok S. Sandhu, Advocate
for the petitioner.

JASPAL SINGH, J.

By virtue of the instant petition preferred under Article 227 of the Constitution of India, petitioner has sought setting aside of order dated 17th November, 2016 passed by Civil Judge (Junior Division), Ludhiana in Suit No.3103 of 2015 captioned as *Oriental Insurance Company Limited Vs. M/s Shri Balaji Express Cargo Service* whereby cross-examination of PW-1 i.e. petitioner/plaintiff has been ordered to be treated as 'nil' and now the suit is stated to be listed for 27th March, 2017 for the remaining evidence of plaintiff/respondents.

A glance at the impugned order dated 17th November, 2016 transpires that the case was fixed for the cross-examination of PW-1/Rakesh Kumar, however, after making an order to the effect that “cross-examination of PW-1 is hereby treated as nil”, the case has been adjourned for the remaining evidence of the plaintiff. On one hand, the presence of Mr. J.S. Sandhu, Advocate for the defendant/petitioner has been recorded in the impugned order but on the other hand, it finds mention that though the case has been called several times since morning but none has appeared on behalf of the defendant to cross-examine PW-1, present in the

Court. The impugned order itself is contradictory. Moreover, no sufficient cause has been unfolded in the impugned order for getting the cross-examination of PW-1 treated as 'nil'. Thus, impugned order dated 17th November, 2016 is not sustainable in the eyes of law and deserves to be *set aside*.

Accordingly, instant petition is accepted whereby the impugned order dated 17th November, 2016 is *set aside*. The trial Court is directed to afford two effective opportunities to the petitioner/defendant to cross-examine PW-1 Rakesh Kumar.

Accordingly, instant petition stands disposed of.

February 28, 2017
m. sharma

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No