

Civil Revision No.1794 of 2017

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

Sr. No.118

**Civil Revision No.1794 of 2017
DECIDED ON: March 14, 2017**

MAHESH KUMAR THROUGH NISHA

..PETITIONER

VERSUS

BHAN SINGH AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Ashish Gupta, Advocate,
for the petitioner.

JASPAL SINGH, J.

Through the instant revision petition preferred under Article 227 of the Constitution of India, petitioner has sought the setting aside of order dated February 03, 2017 passed by Motor Accident Claims Tribunal , Rewari(for short 'Tribunal') in MACT Case No.134, dated November 20, 2015 vide which an application moved by the respondent No.4 by virtue of which direction has been issued to Andhra Pradesh Forensic Science Laboratories, Government of Andhra Pradesh, Hyderabad for getting comparative opinion regarding age of ink, pen used and handwriting/overwriting in DDR No.8 dated June 21, 2013 has been

dismissed.

2. Assailing the impugned order, it has been contended by learned counsel for the petitioner that on account of injuries sustained by the petitioner in a vehicular accident on June 20, 2013, involving truck bearing registration No.HR-14E-0631 preferred a claim petition seeking compensation. During the pendency of which, an application for getting the entries appearing in the DDR No.8, dated June 21, 2013 compared from the Andhra Pradesh Forensic Science Laboratories was moved, which has been illegally and wrongly allowed by the learned trial court. In fact, while disposing a claim petition under Section 163-A or under Section 166 of the Motor Vehicle Act, 1988 (for short 'Act' only), the strict principles of proof are not attracted. The claimant(s) are merely required to establish their case on the touchstone of preponderance of probability.

3. To buttress his contention, learned counsel for the petitioner has relied upon the pronouncement of the Hon'ble Apex Court captioned as "*Parmeshwari vs. Amir Chand and others, 2011(2) RCR (Civil) 153; 2011 AIR (SC) 1504*".

4. While relying upon other pronouncement of Delhi High Court captioned as "*Om Prakash vs. Satvir Singh and others*", 2010(3) ACC 823; 2010(1) RCR (Civil) 498", it has been submitted by learned counsel for the petitioner that it is well settled law that Tribunal is not a Civil Court and should not to follow strict procedure of Evidence Act and Civil Procedure Code in order to hold an inquiry about compensation to be awarded to injured. But Tribunal could rely upon testimony of injured if it found to be creditworthy and supported by circumstances, insistence of Tribunal on

documentary evidence was not warranted. The Tribunal should give due credence to the record produced by the claimant in order to arrive at just and fair compensation. While referring to the facts and circumstances of the case, it has been submitted by learned counsel for the petitioner that petitioner had produced sufficient and reliable trustworthy evidence before the Tribunal to prove that respondent No.1 by driving truck bearing No.HR-14E-0631 rashly and negligently on dated June 20, 2013 had caused the accident and given multiple and grievous injuries to the petitioner. It was only thereafter, the petition was listed for the evidence of the respondents/defendants and after availing sufficient opportunity to lead with the evidence, an application was moved by respondent No.4 for comparison of handwriting of some portion of the DDR No.8 (Annexure P-4), which is unwarranted and is only to delay the disposal of the claim petition and grant of compensation to the petitioner, who is in dire need thereof being 100% disable.

5. This court has given an anxious thought to the aforesaid submissions made by learned counsel for the petitioner but find the same to be of any legal substance.

6. The learned Tribunal has allowed the application after appreciating the legal and factual proposition of the present case, the entire case of the petitioner hinges on DDR No.8, dated June 21, 2013 got registered at Police Station Khol in which there is some overwriting besides it manipulation of with a different pen and ink in the DDR No.8 dated June 21, 2013 has been alleged by the respondent No.4. Moreover, prior to the passing of the impugned order dated February 03, 2017, the concerned DDR

Civil Revision No.1794 of 2017

was summoned by the learned Tribunal and after appraisal thereof, he has
firmed an opinion for sending the matter for comparison purposes.
Moreover, a glance at the impugned order transpires that as many as four
questions have been formulated on which an opinion of the Andhra Pradesh
Forensic Science Laboratories has been sought which clinch the matter in
controversy and enable the Tribunal to pass an effective and judicious
award. The mere fact that the strict proof and procedure as reflected in the
Evidence Act as well as the Code of Civil Procedure are not applicable to
the claim petition does not ipso facto mean that the Tribunal is powerless to
summon any record or to call for report of Forensic Science Laboratory, if
something suspicious comes into light. This court has scrutinized the
impugned order meticulously and has come to the conclusion that the same
is absolutely legal, valid and genuine and does not call for any interference
by this court.

7. As a sequel to the aforesaid discussion, this court is of the
considered view that instant petition is bereft on merits, as such, it stands
dismissed, whereby the impugned order dated February 03, 2017 passed by
learned Tribunal is upheld.

8. No order as to costs.

March 14, 2017

Ankur

**(JASPAL SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No