

265

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

1. Civil Revision No.1846 of 2017
Date of Decision: 14.11.2017

Bharti AXA General Insurance Co. LtdPetitioner
Vs
Kamla and othersRespondents

2. Civil Revision No.2447 of 2017

Bharti AXA General Insurance Co. Ltd. ...Petitioner
Vs
Kamla and othersRespondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rajbir Singh, Advocate
for the petitioner.

Mr. Diwan S. Adlakha, Advocate
for respondents No.1 to 6.

Mr. Nonish Kumar, Advocate
for respondents No.7 and 8.

RAJ MOHAN SINGH, J. (Oral)

[1]. Vide this common order CR Nos.1846 and 2447 of 2017 are being decided as common facts are involved in both the revision petitions.

[2]. Brief facts are that an application under Section 170 of the Motor Vehicles Act (for short 'the Act') was filed by the petitioner for seeking right to contest on merits. The said application was pending before the Motor Accidents Claims

Tribunal, Karnal (for short 'the Tribunal') and no reply was filed by the claimants as well as by the owner and driver of the vehicle. The evidence of the petitioner was closed by order of the Court on 23.11.2016 on the ground that the petitioner has already availed various effective opportunities to lead its evidence, but the petitioner has failed to complete its entire evidence. Thereafter petitioner filed an application for leading additional evidence and the same was also declined by the Tribunal vide order dated 16.02.2017. That is how both the revision petitions came to be filed against the aforesaid orders.

[3]. At the time of issuance of notice of motion in CR No.1846 of 2017, following order was passed on 15.03.2017:-

“Learned counsel for the petitioner submits that although the petitioner was not very vigilant to conclude its evidence, even after availing seven opportunities, yet in the interest of justice, the petitioner deserves to be granted one last and final opportunity to conclude its remaining evidence, failing which a manifest injustice would be caused to the petitioner. He further submits that petitioner would be ready and willing to compensate the claimants-respondents No.1 to 6 by paying the reasonable costs.

Notice of motion for 31.03.2017.

Process dasti as well as through counsel of the respondents before the learned Court below, in addition to ordinary process.

In the meantime, learned Court below is directed

to adjourn the case beyond the date fixed before this Court.”

[4]. Perusal of the facts on record would show that the petitioner has already availed seven opportunities, but in view of the observation made by this Court in the aforesaid order, one last and final opportunity can be granted to the petitioner subject to payment of cost.

[5]. The claim petition has been preferred by the claimants in respect of death of Naresh Kumar, who was employed as Sweeper in Municipal Corporation, Karnal. It would be just and appropriate to grant only one opportunity to the petitioner for leading entire evidence subject to payment of cost of Rs.25,000/- to be paid to the claimants in equal proportions on the date to be fixed by the Tribunal for leading such evidence by the petitioner. The Tribunal shall also decide the pending application under Section 170 of the Act at the same time in accordance with law. Ordered accordingly.

[6]. The payment of cost shall be the condition precedent for granting indulgence by the Tribunal in the aforesaid context.

[7]. Both the revision petitions are disposed of.

November 14, 2017

Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No