

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

CR No.3578 of 2017

Date of decision: 17th May, 2017

Dharam Chand Dangi

....Petitioner

Versus

Sher Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Kunal Dawar, Advocate
for the petitioner.

JASPAL SINGH, J.(ORAL)

By virtue of the instant civil revision petition preferred under Article 227 of Constitution of India, petitioner has sought setting aside the order dated 2nd May, 2017 (Annexure P-1) passed by Motor Accident Claims Tribunal, Faridabad (for short 'Tribunal') in MVA Petition No.113 of 2016 titled as *Dharam Chand Dangi Vs. Sher Singh* whereby the evidence of the petitioner/claimant has been closed by the orders of the Court.

Undisputedly, an application was moved for summoning the witnesses along with the record on 27th April, 2017 by the petitioner/claimant before the learned Tribunal. Summons to the witnesses were to be issued. The diet money was ordered to be deposited by 28th April, 2017 and in compliance of the said order, the requisite diet money of the witnesses were deposited on 1st May, 2017. The claim petition was listed before the Tribunal on 2nd May, 2015 and due to paucity of time, neither summons were issued nor the service could be effected upon the witnesses. However, learned Tribunal without securing

the presence of the witnesses opted to pass the impugned order whereby the evidence of the petitioner/claimant has been closed. By now it is well settled that technicalities of law should not come between substantive justice. However, rules of procedure are handmade of justice and are meant to advance the ends of justice and not to thwart or obstruct the same. Reliance in this regard can be placed upon the observations in case of *Gurwinder Singh Vs. Govt. of India* 2011(1) RCR Civil 638. It is also equally settled that the late deposit of the diet money of the witnesses cannot be said just ground for closing the evidence of either of the parties especially when the other side can be well compensated with the cost. Evidence should never be shut out and the fullest opportunity should be given to the parties to give evidence if the justice of the case requires it. Adverting to the facts of the case in hand and after the necessary deposit of the diet money of the witnesses, it was obligatory upon the Court to secure and ensure the presence of the witnesses along with the record for their examination. In the case in hand, instead of adopting the coercive method for securing the presence of the witnesses, learned Tribunal has closed the evidence which is otherwise against the principles of natural justice. It would also out of place to mention that the petitioner was also preferred under a beneficial legislation seeking compensation on account of multiple injuries sustained by the petitioner/claimant in a road side accident. Instead of showing the benevolence, the Court has taken a harsh view.

Thus, without expressing anything on the impugned order, the same is *set aside* and the trial Court is directed to secure the presence of

the witnesses by depositing the necessary process and examine them and thereafter, to proceed with the disposal of the matter in accordance with law.

Since this order has been passed in the absence of respondents, if they feel so aggrieved, they shall be at liberty to approach this Court.

May 17, 2017
m. sharma

(JASPAL SINGH)
JUDGE

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