

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

**Civil Revision No.6127 of 2014  
Date of Decision: 19.09.2017**

**Darshan Singh** .....Petitioner  
**Vs**  
**Savita Mehta and others** ....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present: Mr. Ravinder Malik, Advocate  
for the petitioner.

Mr. T.K. Joshi, Advocate  
for respondent No.7.

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**RAJ MOHAN SINGH, J.**

[1]. The petitioner has assailed the order dated 17.05.2014 passed by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter to be referred as 'the Tribunal') whereby an application filed by respondent No.7-Reliance General Insurance Company Ltd., under Order 1 Rule 10 CPC for impleading the petitioner as respondent along with *proforma* respondent Nos.8 and 9 in the claim petition was allowed.

[2]. Brief facts are that claimants/respondent Nos.1 to 4 filed a claim petition under Section 166 of the Motor Vehicles Act for the grant of compensation on account of death of Kamal Kishore Mehta by impleading driver, owner and Insurer of the offending vehicle make Opel Corsa car as respondent Nos.1 to

3 respectively. The details of accident were pleaded to the effect that on 23.07.2011, Kamal Kishore Mehta was going from Railway Workshop Jagadhri to his house in Model Town, Yamuna Nagar as a pillion rider on motorcycle being driven by his friend Darshan Singh/petitioner on his correct left hand side of the road at a moderate speed. Nitish Mehta son of the deceased and Nitin Mehta son of Kuldeep Mehta were also going from bus stand side to New Fountain Chowk on the motorcycle. Nitish Mehta was driving the said motorcycle on which Nitin Mehta was a pillion rider. They were following the motorcycle of Darshan Singh at a distance of about 25-30 years. At about 2.30 p.m., when both the motorcycles reached near Jyoti Palace, on Jagadhri Workshop main road, the offending vehicle i.e. Opel Corsa car came from behind in a rash and negligent manner and after overtaking the motorcycle of Nitish Mehta brought the car on the extreme left side of the road on *katcha* portion and hit the motorcycle of Darshan Singh on rear portion of the motorcycle. Both the occupants of the motorcycle i.e. Kamal Kishore Mehta and Darshan Singh fell down. Kamal Kishore Mehta suffered grievous injuries on his head and lost his consciousness. Nitish Mehta and Nitin Mehta shifted the injured to the Hospital. Kamal Kishore Mehta was referred to the PGI, Chandigarh, but he succumbed to his

injuries on the way to Chandigarh during the intervening night of 23.07.2011 and 24.07.2011.

[3]. After completion of evidence of the claimants, the case was fixed for respondent's evidence before the Tribunal, an application was filed by the Insurance Company of the offending vehicle thereby seeking to implead the owner, driver and Insurance Company of the motorcycle bearing registration No.HR-02X-6415 in the case by alleging that the accident took place due to the sole negligent driving by Darshan Singh i.e. petitioner.

[4]. Though the claimants contested the application, but they were not pertinent about the pleadings. At that stage, the petitioner being owner and driver of the motorcycle and its Insurance Company were not in picture.

[5]. The Tribunal vide the impugned order dated 17.05.2014 allowed the application on the alleged plea of respondent No.7 that the accident in question was caused due to sole negligence of Darshan Singh driver of the motorcycle and in case of composite negligence the claimants can chose to sue any of the tort-feasor and in order to avoid multiplicity of litigation, it would be necessary to implead the driver, owner and insurer of the motorcycle. That is how the present revision petition came to be

filed before this Court.

[6]. I have heard learned counsel for the parties.

[7]. Before the Tribunal, present respondent Nos.5 and 6 were respondent Nos.1 and 2 in the claim petition. In para no.5 of the written statement filed before the Tribunal, they took the following stand:-

*“24. That para no.24 of the claim petition is absolutely incorrect and hence emphatically denied. No accident took place with car no.HR02-M-6325, as alleged by the claimants, the car of the answering respondent no.2 has falsely been implicated by the claimants and respondent no.1 has been falsely challaned in the said criminal case by the claimants just to extort compensation from the answering respondents.”*

[8]. Perusal of the aforesaid stand reveals that the factum of accident was denied altogether, rather the owner and driver of the offending vehicle i.e. Opel Corsa Car pleaded *alibi* that no accident took place with their car and false implication was pleaded.

[9]. In the application filed for impleading the owner, driver and insurer of the motorcycle a vertically divergent stand was taken by respondent No.7.

[10]. A claim petition was filed against the driver, owner and

insurer of the offending vehicle. The claim petition was totally silent with regard to any contributory negligence. The written statement filed by driver, owner of the offending vehicle was totally silent about negligence of driver of the motorcycle, rather a plea of *alibi* was taken. The claimants have already led their evidence before the Tribunal and the case is pending for respondents' evidence. At this stage of leading evidence by respondents, in my considered opinion, the application in terms of Order 1 Rule 10 CPC cannot be allowed on the plea that the claimants can chose to sue any of the tort-feasor and the impleadment would curtail multiplicity of the litigation in future.

[11]. In view of above, at this belated stage, no new case can be allowed to be made out that too at the instance of the Insurance Company of the offending vehicle which even cannot be considered to be an eyewitness of the accident in question. Consequently, impugned order dated 17.05.2014 passed by the Tribunal is set aside. This revision petition is allowed. The Tribunal shall proceed to decide the case in accordance with law.

September 19, 2017

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**(RAJ MOHAN SINGH)**  
**JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No