

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.896 of 2013

Date of Decision: 24.08.2017

Same Singh

.....Petitioner

Vs

Ram Sanahi and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. U.K. Agnihorti, Advocate
for the petitioner.

Mr. M.K. Garg, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner Same Singh has filed this revision petition against the award dated 30.11.2004, order dated 19.11.1999, vide which he was proceeded against ex parte, order dated 08.11.2002, vide which he was proceeded against ex parte after publication and order dated 21.11.2012 vide which the application under Order 9 Rule 13 CPC filed by the petitioner was dismissed by the Motor Accident Claims Tribunal, Panipat (for short 'the Tribunal').

[2]. Petitioner was arrayed as respondent No.3 in the claim petition filed by Giano Devi and another in respect of death of Ram Chander in a vehicular accident. The petitioner was impleaded as General Power of Attorney holder of Truck No.HR-10-8029. The owner of the truck i.e. Inderjit Singh was impleaded as respondent

No.2 and driver of the truck i.e. Ram Sanehi was impleaded as respondent No.1.

[3]. The Tribunal vide award dated 30.11.2004, awarded an amount of Rs.1,01,000/- along with interest @ 6% per annum from the date of filing of the claim petition till final realisation of the amount. The further arrangement was made in respect of proportional deposit of the amount in the accounts of the claimants. The liability to pay the aforesaid compensation was held to be joint and several in respect of the respondents. Since the petitioner was proceeded against ex parte, therefore, the award made by the Tribunal was ex parte. An execution was filed and on coming to know about the ex parte proceedings, petitioner filed an application under Order 9 Rule 13 CPC for setting aside the ex parte proceedings against him. The said application was dismissed by the Tribunal vide order dated 21.11.2012 on merits.

[4]. The factual position of the case is not in dispute between the parties. Apparently, the petitioner was neither the owner of the offending truck, nor was driver. He was recorded as General Power of Attorney of the truck. Since the petitioner was ex parte before the Tribunal, no material has come on record in respect of existence of any G.P.A of the truck. The terminology itself appears to be defective as the petitioner was not shown as General Power of Attorney of owner of the truck. The owner of the truck has

expired during pendency of the claim petition. The recovery if any, could be effected from the driver and legal representatives of owner as the petitioner was neither the driver of the offending vehicle, nor was registered owner of the same. The factum of accident is an admitted fact. The interlocutory orders on record are suggestive of the fact that the claimant Suman was duly served and she has been represented by Mr. Rajesh Bansal, Advocate.

[5]. In view of facts and circumstances of the case, it would be just and appropriate to give opportunity to the claimants to proceed against the driver and legal representatives of owner in terms of recovery of the award. If the recovery of the award is not satisfied from the properties of the driver and LRs of owner of the truck, in that eventuality, the claimants would be at liberty to seek revival of the order.

[6]. This revision petition is disposed of by giving liberty to the executing Court to proceed against the driver and legal representatives of owner of the truck at the first instance.

August 24, 2017.

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No