

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.1269 of 2018
Date of decision:14.03.2018

M/s Mittal Timber Traders

... Petitioner

Vs.

Hemraj

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Amit Kumar Jain, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The present revision petition is directed against the impugned order dated 26.10.2017, whereby, the application (Annexure P-1) submitted by the Management for re-assessment of physical disability of the claimant in claim petition filed under Section 22 of the Employees Compensation Act, had been dismissed.

Mr. Amit Kumar Jain, learned counsel for the petitioner submitted that respondent instituted a claim petition under Section 22 of the Employees Compensation Act, for ascertaining the compensation on the ground of injury suffered by him during employment. The aforementioned case is pending adjudication, wherein cross-examination of the claimant was treated 'Nil' but an application was moved for re-assessment as disability certificate of the applicant produced on record *prima facie* was found to be wrong and vague. The counsel for the respondent did not file any reply thereto and the trial Court in a most erroneous and mechanical manner

dismissed the application without assigning any reasons.

I have heard the learned counsel for the petitioner and appraised the paper book.

The impugned order dated 26.10.2017, whereby, while treating cross-examination of the claimant 'Nil', the authority below dismissed the application in the following manner which reads thus:-

*“Present : Sh. Mahavir Tyagi, Advocate for the applicant.
Mr. Vishal Gupta, Advocate for the respondents.*

Today, the case again come for the cross examination of AW-1 by the respondent. AW1- Sh. Hemraj present but despite repeated calls being given, the AR of the respondent has failed to turn up and it can be further concluded that he does not want to avail the opportunity to cross examine the witness i.e. AW-1 and cross be deemed NIL.

Later on at the fag end of the day, the AR for the respondent appeared and moved an application for directing the applicant to get his physical disability reassessed, for which the AR of the applicant said/stated that they don't want to reply. After going through the records of the application, this application stands dismissed as being unnecessary to the conduct of the present case.

Now to come up next for R/E on 09.11.

*Sd/-
CEC-I, Gurugram.”*

I am of the view that concerned judicial authority is expected to pass the order in a most pragmatic and reasonable manner by assigning the reasons but not in the manner and mode as indicated above. The application is required to be reconsidered and decide the same by noticing the averments made therein and assign the reasons. The impugned order dated 26.10.2017 is set aside. The authority below is directed to decide the application (Annexure P-1) in a most pragmatic and reasonable manner. Let this exercise be done within a period of one month from the date of receipt of a certified copy of this order.

I do not intend to issue notice of motion as it would unnecessarily cause expenditure upon the claimant to avail the services of lawyer. In order to defray the costs of litigation, the aforementioned order has been passed.

Accordingly, the revision petition stands allowed.

(AMIT RAWAL)
JUDGE

March 14, 2018
savita

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