

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

CR No.3477 of 2018
Date of decision: 23.05.2018

Sanjay Kumar

... Petitioner

Versus

Kalavati Devi and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Vikas Sharma, Advocate for the petitioner.

ARUN PALLI, J. (Oral)

The petitioner happens to be the driver of the offending vehicle, and is partially aggrieved by an order dated 23.04.2018, vide which the Motor Accident Claims Tribunal, though allowed his application for setting aside the order dated 19.03.2016 vide which he was proceeded against ex parte as also the ex parte award dated 07.07.2017, but required the petitioner as also the owner of the vehicle to furnish surety of the awarded amount i.e. Rs.12,36,750/- along with interest within a period of 7 days. It would be apposite to refer to the conclusion recorded by the Tribunal while passing the impugned order, which reads thus:

“... Perusal of the record shows that though the respondent No.1 was served through publication and respondent No.2 Palwinder Singh owner of the canter in question was duly served on 04.08.2016, but both of them did not appear and were proceeded exparte. Nevertheless, it is settled principle of

law that the opposite party must be heard before deciding any issue pertaining to it, which may be material for his rights as enshrined and granted by the law. Any respondents are having right to defend themselves. As per the facts of the case it appears that the respondents are playing hide and seek for contesting this claim petition, but still this Tribunal consider that they must be given a genuine opportunity to defend themselves in the claim petition on merits. Similarly, the Tribunal is to maintain the balance between the conflicting rights and claims of the parties in the given circumstances. Accordingly, in the interest of justice, equity and fair play, the applications in hand are allowed and the exparte proceedings qua the respondents and exparte award dated 7.07.2017 stands set-aside subject to the conditions that both the respondents No.1 and 2 will furnish surety of the awarded amount i.e. Rs.12,36,750/- alongwith interest as per award till date within 7 days positively. Both these applications stands allowed.”

Ex facie, the petitioner has been evading to appear and contest the proceedings initiated at the instance of the parents of the deceased and was thus proceeded against ex parte. Even though, the Tribunal recorded in no uncertain terms that the owner as also the driver were playing hide and seek for contesting the claim petition, but still in the interest of justice they were granted opportunity to defend themselves and contest the matter on merits. However, to balance the equities and secure the interest of the

claimants all what the Tribunal required the petitioner is to furnish the surety of the awarded amount. Concededly, the stipulated period within which the surety was to be furnished has since gone by, and now the petitioner has chosen to assail the said order. Apparently, the petition lacks both i.e. the merits as also the bonafides, for the intent appears to be to delay the matter further.

No ground is made out to interfere in exercise of revisional jurisdiction under Article 227 of the Constitution of India. The petition is accordingly dismissed.

(Arun Palli)
Judge

23.05.2018
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO