

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

106

CM No.17884-CII of 2018 in/and
CR No.5983 of 2017 (O&M)
Date of decision:5.12.2018

Mukesh

... Petitioner

versus

Pardeep Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.Satbir Rathore, Advocate,
for the petitioner
Mr.Subhash Goel, Advocate,
for the respondent no.3.
...

AMOL RATTAN SINGH, J. (Oral)

CM No.17884-CII of 2018

By this application, advancement of the date of hearing in the accompanying petition has been sought.

Notice having been issued in this application, Mr.Subhash Goel appears for respondent no.3 and does not oppose the innocuous prayer of advancement of the date of hearing.

Consequently, this application is allowed and the date of hearing in the accompanying petition is advanced to today itself.

CR No.5983 of 2017

By this petition, the petitioner challenges the order of the learned Motor Accident Claims Tribunal, Jhajjar, dated 22.8.2017, by which further opportunity to examine the remaining witnesses of the petitioner (claimant before the Tribunal) has been declined, on account of the fact that

it was a last opportunity granted on the previous date, i.e. 1.8.2017, and therefore, the learned Tribunal felt that it was bound by its own order.

It would be interesting to reproduce the following observations of the Tribunal, as recorded in the opening part of the said order:-

“The case file is returned by the learned Court Commissioner, after recording two witnesses of the petitioner. Learned counsel for the petitioner has made one of the most humble and respectful requests to this Court from the date of inception, seeking one more adjournment to adduce evidence on the part of the petitioner. But this Court is bound by its own order passed on 01.08.2017, whereby it was categorically laid before the parties that the further adjournment (i.e. for the even date of 22.08.2017) is being accorded to the petitioner, with a clear-cut import of it being 'single opportunity' and that also with a cost of rs.500/- upon the petitioner.”

Eventually the order has been closed with the following lines:-

“So, the request made by the learned counsel for the petitioner is declined with a reciprocal scale of humbleness on the part of this Tribunal also.

Case is adjourned to 07.09.2017, for evidence of the respondents.”

Learned counsel for the petitioner submits that the petitioner having been severely injured in the accident in question by way of 4 fractures, including one in his neck, leniency may be shown by granting him two more effective opportunities to examine the doctors who had treated

him, so as to prove his case before the Tribunal.

Notice having been issued, Mr.Subhash Goyal appears for respondent no.3, i.e. the insurance company that had insured the vehicle in question with which the accident is contended to have taken place, and has submitted that the Tribunal having considered the request of the petitioner has very politely declined it for the reasons very clearly stated in the order; and therefore no further opportunity needs to be granted to the petitioner.

Having considered the matter, though Mr.Goyal is obviously right that the petitioner should have led evidence within the time frame granted by the Tribunal, with many opportunities seemingly granted to him, however, keeping in view the fact that he seems to have been injured severely (as per the contention), it is considered appropriate that he be granted two effective opportunities, including by making an appropriate application before the learned Tribunal for summoning the witnesses that he wishes to examine if they are not coming on their own.

Consequently, the impugned order is set aside, with two effective opportunities as observed herein above granted to the petitioner to conclude his evidence.

At this stage, Mr.Goyal has submitted that since this Court is allowing this petition, the extra time taken by the petitioner to conclude his evidence, including the time that this petition remained pending before this Court, should not be a burden on the respondents, if the claim petition is eventually allowed by the Tribunal on the basis of evidence led before it.

The request is found reasonable and consequently, it is directed that if the claim petition is allowed and compensation is granted to the

petitioner, interest for the period from 22.8.2017 till the date of conclusion of evidence by the petitioner before the Tribunal, shall not be granted to him.

This petition is allowed as above.

5.12.2018
pk

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No