

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.6572 of 2018

Date of Decision: 22.11.2018

Hasan

...Petitioner

versus

Ratan

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Saleem Ahmed, Advocate
for the petitioner.

Amol Rattan Singh, J.

By this petition, the petitioner has challenged the order of the learned Motor Accidents Claims Tribunal, Mewat, dated 18.05.2018, by which his application under Order 9 Rule 13, read with Section 151, of the CPC, has been dismissed.

The sole respondent herein had instituted MACT Case no.144 of 2017 before the learned Tribunal on 25.07.2017, seeking compensation from the petitioner on account of the death of his mule in a road side accident that is stated to have taken place on 03.06.2017.

The claim petition was instituted invoking Section 163-A of the Motor Vehicles Act, 1988.

The learned Tribunal having issued notice in that petition, with the present petitioner (respondent therein) not having appeared despite service, he was proceeded against *ex parte* vide an order dated 28.08.2017.

Eventually, the claim petition was decided on 07.10.2017, awarding the respondent-claimant compensation to the tune of Rs.62,000/- for the death of the mule, alongwith interest @ 7% per annum running on that

amount, from the date of filing of the petition till the date of realization thereof.

Costs of Rs.3100/- were also awarded.

Thereafter, the petitioner filed the aforesaid application under Order 9 Rule 13, on 18.01.2018, before the Tribunal.

After issuing notice and hearing counsel on both sides, the impugned order was passed, stating therein that in fact summons/notice issued in the claim petition were served upon the wife of the petitioner, namely Sajida, requiring the petitioner (respondent in the claim petition) to appear before the Tribunal on 09.08.2017.

Despite such service the petitioner did not appear, but even so, summons were again ordered to be issued, to be served upon him by substituted service by the process of *Munadi*, the date fixed for appearance of the petitioner (respondent) then being 28.08.2017.

The impugned order goes on to state that *Munadi* was duly effected by the Chowkidar of the of the petitioners' village, i.e. by Noor Mohammad, in the present of a witness, Ajrudeen son of Samuda, resident of village Ghata Samsabad, despite which the petitioner did not appear and was therefore proceeded against *ex parte*.

Hence, holding that the petitioner stood duly served, both, through his wife as also by way of substituted service as aforesaid, the impugned order was passed, dismissing the application seeking recalling of the order proceeding against the petitioner *ex parte*, as also the recalling the Award passed against the present petitioner.

It is to be noticed that the learned Tribunal vide its impugned order has duly reproduced Rule 15 of Order V of the Code of Civil Procedure,

to hold that service of notice/summons issued to the petitioner would be deemed to have been duly complete, with his wife having accepted the summons.

Before this Court, Mr. Saleem Ahmed, learned counsel for the petitioner, has argued that no *Munadi* was actually effected and in fact there was no proof of the petitioner having been served through his wife.

Upon this Court having orally asked him to produce any document to show that the petitioner was not actually served of notices and summons issued, learned counsel had sought time from this Court, with the petition first adjourned on 01.10.2018 to 12.10.2018 and thereafter on 12.10.2018 to 22.11.2018, i.e. today.

Today again, no application has been filed seeking to place on record any such document, nor even has any been produced in court.

Though obviously this Court could call for the records of the case, however, seen that the learned Tribunal has specifically even given the name of the petitioners' wife, to show that service was duly effected upon her through normal process, also giving the name of the Chowkidar and the witness to the process of *Munadi* (by way of substituted service), I see no reason to call for the record, with the petitioner also obviously not wanting to even apply for certified copies thereof to the Tribunal, knowing fully well the contents thereof.

Consequently, finding no merit in this petition, it is dismissed.

November 22, 2018

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(AMOL RATTAN SINGH)

JUDGE

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No