

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 6629 of 2018

Date of Decision: 20.11.2018

Nirmal Singh

.....Petitioner

Vs.

Kuku Khan and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Sanjeev Goyal, Advocate,
for the petitioner.

Mr. Abhinav Singla, Advocate,
for respondents no. 1 and 2.

Mr. R.C. Gupta, Advocate,
for respondent no. 3.

AMOL RATTAN SINGH, J. (ORAL)

Pursuant to notice issued on 01.10.2018, Mr. Abhinav Singla, Advocate, has appeared on behalf of respondents no. 1 and 2 and Mr. R.C. Gupta, Advocate, has appeared on behalf of respondents no. 3. Both learned counsel have filed their powers of attorney in Court today, which are taken on record.

By this petition, the petitioner challenges the order of the learned Motor Accidents Claims Tribunal, Sangrur, dated 06.08.2018, by which the evidence of the petitioner-claimant was closed by the Tribunal, with the impugned order showing that it was so closed as he had already availed of 09 effective opportunities to conclude his evidence without being able to do so.

Learned counsel for the petitioner points to the discharge summary, dated 10.03.2018, (Annexure P-3), issued by the Department of Neurosurgery,

PGIMER, Chandigarh, wherein amongst other things it is stated as follows:-

Culture and Sensitivity	Staph Aures Sensitive to Erythro, Clinda, Vanco Teicoplanin
Special Investigation like CT/MRI/DSA etc.	CECT= Skull Bone Flap Osteomyelitis with underlying small collection

The following advise has also been given to the petitioner at the time of discharge, which is also stated as follows:-

“Clean wound with soap and water. Suture removal on 17.03.2018 at nearby hospital. To attend Neurosurgery OPD after 03 weeks on Tuesday/Saturday and later as per the need on Tuesday/Saturday at 08:30 a.m. in New OPD Complex 3rd floor A block, Room no. 3112. Referred to local Civil/District/General hospital for basic medical care. Limb physiotherapy. To attend local hospital/ATC OPD in case of any emergency.”

Very obviously, the petitioner, at least up-till March 2018, was not anywhere near a normal condition for him to effectively follow up on his case before the Tribunal.

Upon query to learned counsel, he submits that as a matter of fact even today though the petitioner seemingly is not suffering from any visible physical problem but as regards his mental condition, he is not normal (as contended).

He further submits that in fact the application filed before the learned Tribunal, seeking a direction to the Head of the Department in the PGIMER, Chandigarh, for examination of the patients' presently condition of disability, has also been rejected.

He also submits that the petitioner has also applied to the Head of Department/doctor concerned, in the Department of Neurosurgery, PGIMER, Chandigarh, for such examination, but with no date having been given by the learned doctor for examination (again as contended by learned counsel).

Consequently, in the aforesaid circumstances, this petition is allowed with the impugned order set aside. The petitioner is granted 03 effective opportunities to examine whom he contends to be an eye witness, with the learned Tribunal further directed to summon the said witness, upon the petitioner depositing a requisite fee etc.

He would also be permitted to lead by way of evidence the report of the learned doctor in the Department of Neurosurgery, PGIMER, Chandigarh (or any other doctor from the PGIMER as is considered necessary), to make such opinion on the petitioners' disability if any, with the Head of the Department of Neurosurgery in the PGIMER, Chandigarh, also requested to give the petitioner a specific date in the very near future to assess his disability, by a Board of Doctors to be constituted by either the Head of Department of Neurosurgery himself/herself, or if necessary, by the Director, PGIMER, Chandigarh, (if more than one department is to be involved).

The said report be given to the petitioner by 20.12.2018, with the Tribunal directed to adjourned the matter to a date in January, to enable the petitioner to conclude his evidence.

November 20, 2018
nitin/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes