

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

CR No.7289 of 2018

Date of Decision: November 29, 2018

Ashwani Kumar

..... Petitioner

Versus

The Oriental Insurance Company Ltd. & Ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Pritam Singh Saini, Advocate for the Petitioner.

Mr. Ashwani Talwar and Mr. Akshay Bansal, Advocates
for Respondent No.1.

SUDIP AHLUWALIA, J.

This Revisional Application is directed against the impugned Order passed by Ld. MACT Ambala in MACT Case No.474 of 2017 on 17.10.2018.

2. Vide the impugned Order, the Ld. Tribunal had rejected the Petitioner's Application dated 8.10.2018 in which he had prayed for liberty to be examined as an additional RW. Petitioner happens to be Respondent No.2/Owner of the Offending Truck/Canter No.HR-37-D-6390, which was allegedly involved in the Motor Accident, and the grounds on which he had prayed for permission to be examined as an additional RW in his aforesaid application are set out below -

“3. That thereafter the respondent no.3-Insurance company led their evidence and the respondent no.3 examined RW1-Clerk of Office of RTA Ambala and RW2-Clerk of Office of RTO Agra regarding Driving Licence of respondent no.1. The respondent no.3 intentionally produced false evidence regarding the said Driving

Licence just to escape from its liability. Thereafter the respondent no.3 closed their evidence and the case was adjourned to rebuttal and arguments for 08.10.2018.

4. *That while preparing the case for arguments, it was revealed that the permit of this vehicle in question was inadvertently not tendered in evidence, which is very relevant for the proper adjudication of the matter.*
5. *That the evidence of the applicant-respondent no.2 is also necessary and relevant for the proper decision of the issue regarding the fate of the driving licence of respondent no.1.”*

3. The Ld. Tribunal however, rejected the Petitioner's aforesaid application after observing inter-alia -

“4. Perusal of the record shows that on 27.08.2018 counsel for respondents no.1 & 2 has closed their evidence after tendering some documents and also made their separate statement in this regard. Once counsel for the respondents no.1 & 2 has already closed evidence on behalf of respondents no.1 & 2 then he cannot be allowed to examine respondent no.2 by way of additional evidence. Moreover, no reason has been assigned in the application as to why the respondent no.2 did not examine himself earlier before closing the evidence on his behalf. The application has been moved by the counsel for the respondent no.2 only after respondent no.3 insurance company have examined two witnesses to prove that driving licence of respondent no.1 is fake. Hence, if the opportunity is given to respondent no.2 at this stage that would amount to fill up the lacuna which cannot be allowed under the powers to lead additional evidence and serious prejudice would be caused to respondent no.3.”

4. Reliance has been placed upon two decisions of Coordinate Benches of this Court i.e. '**Reliance General Insurance Company Ltd. Vs. Ankush Dhingra and Anr.**' 2017(3) PLR 122 in which the liberty was granted to the Insurance Company at a belated stage subject to payment of costs, to lead evidence to the effect that the Driving Licence of the Driver of the said case was a fake one.

5. In **'Naresh Vs. Dineshwari and others' 2013(5) R.C.R (Civil) 188** similarly liberty to lead evidence by way of examination of the concerned official of Licensing Authority of Driving Licenses issued in a given year was granted subject to payment of costs at a later stage, so that a proper decision regarding the genuineness of the Driving Licence in the said case which was *“very essential to determine the liability of the Insurer”*, was granted.

6. In addition, reliance has also been placed upon the decisions of Supreme Court in **'Pepsu and Ors. Vs. Vinod Kumar Lamba and Anr.'** **2018(2) R.C.R. (Civil) 42** and **'Singh Ram Vs. Nirmala and Ors.'** **2018(3) SCC 800.**

7. In the present case, the Petitioner wants to lead his own evidence to rebut the evidence already led on behalf of Insurer (original Respondent No.3) regarding validity of the Driving Licence of the driver at the relevant time, which he describes as being “false evidence produced by the Insurance Company just to escape from its liability.” In the opinion of this Court, no conceivable prejudice can be caused to the contesting Respondent/Insurance Company if the Petitioner is permitted to lead into evidence all the available documentary material in his possession or control, pertaining to the permit of the Offending Vehicle as well as genuineness of the Driving Licence of its driver at the relevant time, if the Respondents are otherwise sufficiently compensated monetarily.

8. The Revisional Application is therefore, disposed off after setting aside the Impugned order and with liberty to the Petitioner to give evidence as an additional RW in the case for the limited purpose of leading his Vehicle Permit and documentary material, pertaining to the alleged

genuineness of his driver's Driving Licence subject to payment of costs of Rs.3000/- each in favour of the Insurer (Respondent No.1) and Respondent Nos.3 and 4 (Claimants) with liberty to them to cross-examine the Petitioner or his witnesses to be examined in this regard, and with a further liberty to lead any evidence in rebuttal if so desired by them. It is further directed that except for leading into evidence any tangible documentary material pertaining to the Permit of the Offending Vehicle and genuineness or otherwise of the disputed Driving Licence, the Petitioner or his witnesses shall not be permitted to make any additional oral statement(s) regarding any other facts which are not otherwise specifically pleaded in his original reply/Written Statement against the Claim Application.

(SUDIP AHLUWALIA)
JUDGE

November 29, 2018
AS

- | | |
|--------------------------------|--------|
| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |