IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CR No.4734 of 2018**
2. **CR No.3730 of 2018**
3. **CR No.3738 of 2018**

Date of Decision : 18.07.2019

ICICI Lombard General Insurance Co. Ltd.

.....Petitioner

Versus

Harpal Kaur and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Rajbir Singh, Advocate for the Petitioner.

SUDIP AHLUWALIA, J. (ORAL)

This order shall dispose off the above mentioned three Revision Petitions, which arise from the same proceedings pending between the same parties. For the sake of reference, facts have been taken from CR No.4734 of 2018.

2. Background of the matter is that the Petitioner-ICICI Lombard General Insurance Co. Ltd. (for short, 'the Petitioner') had earlier filed two Applications in MACT Case Nos.373 and 374 of 2016 for permission to lead certain additional evidence on the ground that it had come to its notice that there was collusion between the Claimants and the original Respondent No.1 (i.e. Owner/Driver of the Offending

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Vehicle). The Petitioner had also filed application for amendment of Written Statement (in MACT Case No.373 of 2016), which was dismissed by the Ld. Tribunal vide order dated 6th July, 2018, which has been impugned by the Petitioner vide CR No.4734 of 2018.

3. The aforesaid Applications were rejected by the Ld. Tribunal, vide its orders passed on 18th May, 2018, *inter alia* on the ground that there was no specific plea of the collusion from the side of the Insurer in the Written Statement, and so no evidence could be led beyond pleadings. The said Orders have been challenged by the Petitioner in CR No.3730 of 2018 and CR No.3738 of 2018 which have been listed along with the present Revision Petition. However, after dismissal of its application, the Petitioner-Insurance Company moved application to amend its Written Statement which was also dismissed, vide Order dated 6th July, 2018.

4. In the instant Revision, the Petitioner has challenged the subsequent Order dated 6th July, 2018 (Annexure P-1) vide which application for amendment of the Written Statement by the Petitioner, had been rejected. This was in the backdrop of the fact that at an earlier stage the Petitioner had sought to lead additional evidence of certain facts which were not there in the original pleadings, and after rejection of that application for the aforesaid ground, it tried to get those additional facts/pleadings to be incorporated by way of

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amendment of Written Statement, which in the opinion of the Ld. Tribunal was an attempt to take a "*back door entry to hoodwink the adverse orders*" passed against it while declining the application for additional evidence because of "lack of pleading of collusion".

5. This Court finds no perversity or impropriety in the aforesaid observations of the Ld. Tribunal since admittedly entire defence evidence from the side of the Petitioner had already been closed and firstly, the application for additional evidence, which was beyond pleadings, and thereafter the application for amendment of the pleadings to incorporate the new averments for which permission to lead additional evidence had been declined, was sought to be secured by amendment, and therefore the Ld. Tribunal was correct in its observation that, "now the Insurer cannot be allowed to fill up the *lacuna* in this manner, adopting such kind of clever tactics".

6. Further, considering the inordinate delay and the belated stage at which such attempts of additional evidence and subsequent amendment of pleadings were sought to be secured by the Petitioner-Insurance Company after its evidence had already been closed, it certainly does not deserve any indulgence since, admittedly, the apparent collusion between the Claimants and Original Respondent No.1, if at all it did exist, ought to have been challenged by the Petitioner at least before the evidence from its own side had

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commenced.

7. No grounds are, therefore, made out to interfere with the impugned order.

8. Dismissed.

July 18, 2019 **(SUDIP AHLUWALIA)**
Dpr **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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