

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

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CR No.5144 of 2018

Date of decision:19.3.2019

Bajaj Allianz General Insurance Company Limited

... Petitioner

versus

Charanjit Kaur and others

... Respondents

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

Present: Mr.Vishal Aggarwal, Advocate,
for the petitioner
Mr.S.K.Aggarwal, Advocate,
for respondents no.1 to 3
...

AMOL RATTAN SINGH, J. (Oral)

1. By this petition, the petitioner challenges the order of the learned Motor Accident Claims Tribunal, Chandigarh, by which examination of an 'expert witness' by the petitioner-insurance company has been declined by that forum on 9.7.2018.

A perusal of the impugned order shows that the rejection of the petitioners' application filed for that purpose, was on the ground that the person who unfortunately died in the accident, Balwinder Singh, had earlier been treated for injuries by one Dr.Anupam Jindal, but subsequently he died with his postmortem examination conducted by Dr.Sugam Sharma, with the copy of the postmortem report duly having been exhibited before the Tribunal.

The learned Tribunal has further stated in the impugned order that Dr.Anupam Jindal having been examined and the controversy being

whether the death of Balwinder Singh was directly attributable to the injuries suffered by him in the accident in question or not, it could best be explained either by the treating doctor or by the doctor who conducted the postmortem examination and consequently, examination of Dr.Veerendra Koushik Naidu (as was sought by the petitioner herein) would not serve any purpose, he neither having treated Balwinder Singh in any manner nor having conducted the postmortem examination on his body.

2. On the last date of hearing, learned counsel for the respondents-claimants had submitted that in all probability, Dr.Veerendra Koushik Naidu is actually a doctor on the panel of the doctors maintained by the insurance company and as such his examination may possibly be only in tune with what the company wants him to say.

3. Though, naturally, no comment can be made with regard to an opinion to be given by a learned doctor while testifying on oath, this Court had nevertheless directed learned counsel for the petitioner to determine as to whether Dr.Veerendra Koushik Naidu is on the panel of doctors maintained by the company or not.

Today, he submits that he is on that panel. He, however, submits that the said doctor being a medical expert, and the allegation of the petitioner company being that Balwinder Singh died on 19.12.2016 whereas the accident took place on 27.11.2016, with him having been discharged on 6.12.2016, his death had actually no nexus with the accident in question and hence, examination of such an expert was necessary.

4. Learned counsel for the respondents-claimants on the other hand draws attention to the discharge summary issued by the Mayo

Healthcare Super Speciality Hospital, Mohali, dated 6.12.2016 (copy Annexure R-3), to submit that though Balwinder Singh had been discharged on that date, however, firstly, the diagnosis was that in the road side accident that took place, he suffered a head injury, with a “fracture bicondylar proximal tibia left leg (minimally displaced)” and though his condition was stated to be stable on the date of his discharge, he was discharged with the advice to follow up further on his condition on 16.12.2016.

He further submits that upon him having visited the hospital on 16.12.2016, he was again asked to come back for a check up/follow up on 19.12.2016, on which date he however died prior to his being able to go to the hospital.

5. Keeping in view the aforesaid contentions raised on both sides, without making any comment on the merits thereof in any manner, though the reasoning given by the learned Tribunal is otherwise sound, however, in order to not disallow any “expert opinion”, this petition is allowed inasmuch as the petitioner-insurance company would be permitted to examine the medical expert as it wishes to, with however the respondents-claimants also to be allowed to examine any expert that they wish to examine by way of evidence in rebuttal, the petitioners' prayer being allowed essentially on an application subsequently filed by it before the Tribunal, and not on the basis of any averment made by it in the written statement (that it wished to examine any such witness).

Naturally, all evidence led by both sides, would be appraised by the learned Tribunal in its own wisdom.

19.3.2019
pk/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No