

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

Civil Revision No.7889 of 2015 (O&M)

Date of Decision: May 06, 2019

Surjit Kaur & others

...Petitioners

Versus

Union of India & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr.Prabhjot Singh Chahal, Advocate for
Mr. G.S.Nagra, Advocate,
for the petitioners.

Mr. Suman Jain, Advocate,
for respondent Nos.2 & 3.

AMIT RAWAL, J. (Oral)

Learned counsel appearing on behalf of the petitioners submitted that originally the claim petition was filed attributing the negligence to the respondents, i.e., owner and driver of CTU Bus bearing registration No.CH-01-G-5523. The claim petition was dismissed by the Motor Accident Claims Tribunal on merits by awarding compensation of ₹50,000/- on account of 'No fault liability'. FAO No.2695 of 2001 was preferred before this Court and vide order dated 22.01.2015, the same was remanded back to the Tribunal enabling the petitioners to implead the owner and driver of the tractor-trolley as FIR No.94 dated 15.11.1997 under Sections 279/337/339/304-A IPC was registered at Police Station Morinda. An application for impleadment was filed to incorporate the same, which was allowed vide order dated 17.07.2015 by adjourning the matter to

20.08.2015 enabling the petitioners to file amended claim petition, but, however, on the adjourned date, claim petition has been dismissed for non-compliance of the order in not filing the amended petition by impleading the owner and the driver of the tractor-trolley.

It was next contended that there were certain passengers travelling in the CTU bus, who also filed similar claim petition, i.e., MACT No.243 of 1999 titled as 'Neelam Versus Union of India'. The same was decided vide order dated 01.09.1999 by the MACT, Chandigarh attributing the negligence to the CTU bus driver. In such circumstances, the petitioners do not want to pursue the application for amendment and seeks indulgence of this Court for restoration of the claim petition with the array of memo of parties for adjudication in accordance with law.

Per contra, Mr. Suman Jain, learned counsel for respondent Nos.2 and 3 submitted that the amendment sought to be incorporated was wholly apposite stand and it was dismissed for non-filing of the amended petition despite numerous opportunities. It would be total onerous upon the respondents in case the matter is ordered to be retried. It would tantamount to *de novo* trial.

I have heard the learned counsel for the parties, appraised the paper book and of the view that once the statement was made by the counsel for the petitioners for not pursuing the claim petition in compliance of the order dated 17.07.2015 against the untraced report of the driver and owner of the tractor-trolley and particularly the disposal of the claim petition bearing No.243 of 1999 titled as 'Neelam Versus Union of India' cannot come in the way of the affected party for adjudication of the appeal.

Resultantly, the impugned order dated 20.08.2015 dismissing

the claim petition for non-compliance of the order is hereby set-aside and in view of the statement made, claim petition be decided with the array of memo of parties on merits. Both the parties are permitted to lead evidence, if necessity arises regarding the decision in connected case along with the evidence which can be read into piece of evidence in accordance with law.

Revision petition stands disposed of.

May 06, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No