

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

(115)

CR no. 989 of 2019

Date of Decision: 11.02.2019

Jagseer Singh

...Petitioner

Vs.

Baljeet Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present : Mr. Kulwinder Singh, Advocate, for
Mr. S.S. Sarwara, Advocate, for the petitioner

Amol Rattan Singh, J. (Oral)

By this petition, the petitioner (claimant before the Motor Accident Claims Tribunal, Fatehgarh Sahib), seeks an additional opportunity of depositing the publication fee for effecting substituting service of notice issued in the claim petition.

Vide the impugned order dated December 05, 2018, the learned Tribunal has dismissed the claim petition qua respondent no.1, on the ground that despite several opportunities the fee for publication was not deposited for effecting service upon respondent no.1. (Though in the first part of the order the Tribunal has stated that it is for effecting such service upon respondent no.2, however that obviously is not so, because immediately after holding that, it has been stated that it had no option but to dismiss the claim petition against respondent no.1 for want of publication fee).

It has also been stated that respondent no.2, i.e. owner of the vehicle in question, had already been proceeded against *ex parte*.

It is seen from the memo of parties in the claim petition (Annexure P-1), that respondent no.1 is the driver of the vehicle with which first petitioner husband is stated to have met with an accident; respondent no.2 is the owner thereof, and respondent no.3 is the insurance company that may have insured the vehicle, with name of the insurance company to be disclosed by respondents no.1 and 2.

Thus, actually presently no person is defending the claim petition before the Tribunal.

On a specific query to learned counsel he has stated that the evidence of the petitioner-claimant has not concluded before the Tribunal and though vide the impugned order dated 5.12.2018, the next date of hearing is shown to be 16.1.2019, actually the claim petition has still not been disposed of, with the next date of hearing being 5.3.2019.

That being so, this petition is allowed, with the petitioner permitted to deposit the necessary fee for effecting substituted service on respondent no.1, in the claim petition before the Tribunal, by way of publication in two news papers having wide circulation in the area of place of residence of respondent no.1 (as shown in memo of parties before the Tribunal).

The necessary fee be deposited with the Tribunal within a period of 15 days from today, after which that court would fix a date to determine whether service has been effected by the substituted method or not, and thereafter proceed with the motor accident claims case.

The impugned order is therefore set aside and the petition allowed, subject to the condition of the deposit of necessary publication of fee within a period of 15 days.

11.02.2019
Ashwani/vcgarg

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : Yes
Whether reportable : No