

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 115 of 2020

Date of Decision: 05.03.2020

Krishan Kumar

.....Petitioner

Vs.

Naresh Kumar and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Shalinder Mohan, Advocate, for the petitioner.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner has impugned the order of the learned Motor Accidents Claims Tribunal, Hisar, dated 21.11.2019, vide which the application of the petitioner seeking to lead additional evidence by way of examining another witness, has been dismissed.

The contention of the petitioner, vide his application (copy Annexure P-1), was that the said witness being an eye witness to the accident, whose statement had also been recorded under Section 161 of the Cr.P.C. by the police, (which fact had only come to the knowledge of the petitioner recently), he was required to be examined.

In the reply filed by the respondent-insurance company to that application, it was stated that in fact arguments in the case had also been addressed on 17.09.2019 and it had been adjourned to 05.10.2019 for final arguments and the order of the Tribunal, and consequently it is only after the petitioner formed an impression that his petition would be dismissed, that he sought to examine another witness by preparing a false plea.

The learned Tribunal, vide the impugned order, has held that the

petitioner has filed a claim petition seeking compensation for injuries sustained by him in a motor vehicle accident and on his statement itself, the FIR was registered and therefore he was a witness to the accident himself. Hence, it was not necessary that the testimony of another person, alleged to be also a witness to the accident, should be allowed to be taken, at the fag end of the trial.

Consequently, the application was dismissed.

This petition having initially come up for hearing on 10.01.2020, learned counsel for the petitioner had been directed to place on record a copy of the report submitted under Section 173 of the Cr.P.C. in the criminal proceedings, as also the statement of the witness that he wished to examine, as recorded by the police under Section 161 of that Code.

He had further been directed to show as to when the list of witnesses was provided by him to the Tribunal and as to when his evidence was closed, as also to provide a copy of the MLR in respect of the injuries received by him.

That order not having been complied with by the next date of hearing, the matter was adjourned to 23.01.2020, by which date it again had not been complied with, leading to the petition being dismissed-in-default.

Thereafter, on an application moved for restoration of the petition, that had been allowed by this court on 28.02.2020, with another application filed by the petitioner, seeking to place on record the report under Section 173 of the Cr.P.C as also the FIR and the medico-legal report, also being allowed.

A list of witnesses as is stated to have been submitted by the petitioner to the SHO of the police station concerned was also sought to be placed on record, which was also allowed to be so placed with the matter thereafter adjourned till today for arguments.

Today, at the outset, counsel for the petitioner submitted that the list

of witnesses supplied to the Tribunal is the one which has been taken on record by this court as Annexure P-5; but upon it being pointed out to him that even as per the vernacular version thereof, that was a list prepared by the SHO of the police station concerned on 01.11.2017 (the accident having taken place, as per the case of the petitioner on 20.10.2017), he initially tried to submit that the said list of witnesses was actually that as had been supplied to the Tribunal.

This court having admonished learned counsel for trying to mislead it, even in terms of the said annexure itself, he obviously had no further answer to that query.

Be that as it may, I see no reason to allow this petition, in view of the fact that the even as per the MLR as has been annexed as Annexure P-7 with the petition, the petitioner is shown to have been conscious when he was brought to the hospital after the accident, and that apart, he not having examined any other person as an eye witness other than himself right till the time that his evidence as also the evidence of the respondents had concluded, at the stage of final arguments after arguments had been initially addressed before the Tribunal, introduction of a new witness, in my opinion, would only be to cover a lacuna, which even in summary proceedings should not be allowed, given the circumstances hereinabove.

Consequently, this petition is dismissed in *limine*.

March 05, 2020

nitin/dinesh

Whether speaking/reasoned

Whether Reportable

(AMOL RATTAN SINGH)

JUDGE

Yes

No.