

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

1. CR No.4289 of 2017

Sukhchain Singh

... Petitioner

Versus

Hardeep Kaur & others

... Respondents

2. CR No.4332 of 2017

Sukhchain Singh

... Petitioner

Versus

Pinki Devi & others

... Respondents

Date of decision: 6th February, 2020

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Raman Goklaney, Advocate for the petitioner.

Mr. K.S. Dhanora, Advocate
for respondents No.1 to 4 in CR-4289-2017

Mr. Shubham Jain, Advocate for
Mr. Suman Jain, Advocate
for respondent No.6 in CR-4289-2017 and
for respondent No.7 in CR-4332-2017.

Mr. Amit Kundra, Advocate
for respondent No.10 in CR-4332-2017.

None for remaining respondents.

FATEH DEEP SINGH, J.

Both these revision petitions though have arisen in two different motor accident claims petitions, one bearing No.348 of 2014 titled 'Hardeep Kaur & others v. Sher Singh & others' and the second No.335 of 2014 titled 'Pinki Devi & others v. Sher Singh & others' but

on account of challenge to same very order dated 09.05.2017 passed by the Court of learned Motor Accident Claims Tribunal, Kurukshetra before whom both the claim petitions were pending and whereby vide the impugned order the Court has dismissed the applications in the respective claim petitions for setting aside ex-parte award against respondent No.2 Sukhchain Singh (now petitioner before this Court in both the revision petitions), these petitions are being disposed off together.

Heard learned counsel for the respective parties and perused the records.

The revisionist (then respondent No.2) Sukhchain Singh was issued process by the Court for his appearance who did not appear and was proceeded against ex-parte on 01.12.2014. Subsequently, the petitioner was summoned as a witness of remaining respondents for 08.08.2016 and did not appear. When coercive process was resorted to, he moved application for setting aside ex-parte proceedings dated 19.12.2016 and as a consequence of which, upon hearing the two sides, after receiving reply of the petitioners (then claimants) the Court through impugned orders dismissed the applications.

Appreciating the submissions of the two sides, the proceedings under the Motor Accidents Claims Act before the Tribunal are summary in nature wherein stricter principles of law and Evidence Act are not applied. Reliance placed on **II (1995) ACC Gauhati 188 'UOI v/s Mrs. Saraswati Debnath'**.

The petitioner no doubt was proceeded against ex-parte on 01.12.2014 and moved the application for setting aside ex-parte proceedings on 19.12.2016 after more than two years. It is the stand of the petitioner even in his application before the learned Tribunal that at no point of time he ever received the process of the Court or refused to accept the process issued by the Court and rather claimed that he used to remain away from home as he was a truck driver.

Learned counsel for the respondents in the present petitions have opposed this stand of the petitioner claiming that he was fully aware of the proceedings and did not put in appearance and thus, was not entitled to any sympathy. The Court does not feel it essential to digress on this issue and rather the perusal of the impugned order shows that the Court below was more influenced by the conduct of the petitioner over not responding to its process even as a witness for one of the respondents and has been the hallmark leading to passing of the impugned order. It needs to be kept in mind that in fair dispensation of justice the courts need to be wary of hyper-technicalities and since as is argued before this Court by the learned counsel for the two sides, the proceedings before the Tribunal have since been stayed by this Court and the matter before the Tribunal is still pending, it would not be inappropriate at this juncture if the petitioner is allowed to join the proceedings before the Tribunal and participate to enable the Court to adjudicate the dispute on merits and

would thus be also a comprehensive judicious adjudication and which is not likely to cause much prejudice to the case of the opposite side.

In the light of the same, both present petitions stand allowed, the impugned order dated 09.05.2017 is hereby set aside and directions are issued to the Tribunal to allow the petitioner (respondent in the Trial Court) to participate in the proceedings to hold trial of the claim petitions afresh. However, the same shall be subject to payment of ₹10,000/- in each case as costs which will go to the claimants side, which shall be a precondition.

The petitions stands disposed off in those terms.

(FATEH DEEP SINGH)
JUDGE

February 6, 2020

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No