

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

**CR No.607 of 2020 (O&M)
Date of Decision : 18.02.2020**

Amandeep Singh ...Petitioner
Versus
Kala Wati and others ...Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rishabh Gupta, Advocate
for the petitioner.

Mr. Prateek K. Sodhi, Advocate
for respondent Nos.1 to 3.

Mr. Parul. S. Saini, Advocate
for respondent No.4.

ALKA SARIN, J

CM-2973-CII-2020

This is an application for placing on record document Exh. C-22 in the shape of Annexure P-11. For the reasons mentioned in the application, the same is allowed subject to all just exceptions and Annexure P-11 (copy of document Ex.C-22) is taken on record.

Main Case

1. The present revision petition has been filed under Section 227 of the Constitution of India challenging the order dated 09.12.2019 (Annexure P-9), whereby, the application filed by the petitioner under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (hereinafter to be

referred as 'the CPC') for amendment of the written statement was dismissed.

2. Brief factual matrix of the case is that the respondent-claimants filed a claim petition on account of the death of Narad Muni, who is stated to have met with an accident with Truck Tralla bearing Registration No. PB-03-AA-6411, which was being driven by respondent No.5 herein. In the reply filed by the owner of the offending vehicle i.e. petitioner-herein in Paragraph 4 of the preliminary objection the factum of the accident was denied and in Paragraph 6 of the preliminary objection, it was averred that respondent No.2 therein (respondent No.5-herein) was not the driver of the vehicle. However, it was not denied that the petitioner was the owner of the vehicle. Though it was denied that respondent No.5-herein was driving the vehicle, no name of the person who was driving the vehicle at the time of the accident was disclosed.

3. An application dated 21.10.2019 was filed by the petitioner-herein under Order 6 Rule 17 read with Section 151 CPC for amendment of the written statement wherein, it was stated that Paragraph 5 (A) was required to be added in the preliminary objection and the same Paragraph was required to be added as Paragraph 24 (a) in the written statement. Proposed Paragraph 5 (A) is reproduced herein below :-

5 (A). That it is requires to submit here that the truck No. PB-03-AA-6411 belongs to the respondent No.1 and on the day of accident i.e. on 30.08.2016, the above vehicle was being driven by Gurdial Singh s/o Kashmir Singh r/o Buttari, Tehsil Baba Bakala, District Amritsar. It is also requires to submit here that the alleged accident was occurred due to sole fault of the deceased Narad Muni as on 30.08.2016,

when the petitioner Kalawati along with the deceased Narad Muni were going on foot at the road and the deceased Narad Muni got slipped on the road and due to which his legs were rolled down under a truck coming from behind side and due to this reason, the police has rightly got recorded the rapat No.22 dated 2309.2016 and no F.I.R was registered in this case. It is pertinent to mention here that the respondent No.1 and his truck No.PB-03-AA-6411 are falsely implicated in the present petition.

4. I have heard the learned counsel for the parties. It is been contended by the learned counsel for the petitioner that earlier the name of the driver was not known. However, now by way of the amendment, the petitioner wanted to introduce the name of the driver. Learned counsel for the petitioner has relied upon a letter dated 04.03.2017, which he produced as Annexure P-11 (CM No.2973-CII of 2020), to contend that as per the report submitted by S.P. Traffic and Security, Tarn Taran that the matter was enquired into and it was specifically held that the matter was compromised after taking an amount of ₹ 80,000/-.

5. Per contra, learned counsel for the respondent Nos. 1 to 3 has contended that by way of the proposed amendment, the petitioner wants to change the stand taken by him in the written statement, which cannot be permitted in law. In the written statement filed by him he has denied the very factum of the accident and now by way of the proposed amendment he wanted to add that the accident had occurred due to the fault of the deceased Narad Muni. He has further stated that Annexure P-11 (Ex.C-22) sought to be relied upon by the petitioner has no relevance to the proposed amendment. In fact, a perusal of the said report reveals that it is

been recorded that the applicant/party has stated that the case be registered against Balwinder Singh son of Jasbir Singh, the driver of the Truck Tralla bearing Registration No. PB-03-AA-6411, hence the said document does not further the cause of the petitioner.

6. A perusal of the proposed amendment reveals that the petitioner wants to change his entire stand by adding Paragraph 5 (a) to the written statement. Earlier, the very factum of the accident had been denied and now by way of the proposed amendment, it is sought to be contended that the accident had occurred due to the fault of the deceased Narad Muni. By way of the proposed amendment, he also wanted to introduce the name of the driver as being Gurdial Singh.

7. In the written statement originally filed by the petitioner he had categorically denied that the vehicle was being driven by Balwinder Singh (respondent No.5-herein), the name of the person who was driving the vehicle at that point of time was not disclosed. Though the factum of ownership of the offending vehicle was not denied yet for the reasons best known to the petitioner, the name of the driver was not disclosed.

8. Even now, in the application for amendment there is not even a single word mentioned as to how and under what circumstances, it has now come to the notice of the petitioner that the vehicle was being driven by Gurdial Singh. In fact, the document Annexure P-11 (Ex.C-22) produced by the petitioner also clearly mentions that Balwinder Singh was driving the offending vehicle at that time.

9. Learned counsel for the petitioner has been unable to show any evidence or document in his possession to show that Gurdial Singh was driving the offending vehicle at the time of the accident. He is also

unable to explain as to why the name of Gurdial Singh was not disclosed in the written statement if at all he was driving the offending vehicle. The petitioner also by way of the proposed amendment wants to now add that the accident had occurred due to the fault of the deceased Narad Muni on the ground that the said facts were inadvertently not mentioned in the written statement. It is not a case where these facts have subsequently came to the knowledge of the petitioner. Merely by making a bald statement that inadvertently the said facts were not mentioned in the earlier written statement would not give a right to the petitioner to amend his pleadings.

10. In view of the above, finding no merit in the present revision petition, the same is dismissed.

(ALKA SARIN)
JUDGE

18.02.2020
Manpreet

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No