

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

CR-1776-2021

Date of Decision: December 22, 2021

Shila Devi and others

...Petitioners

VERSUS

Narender Kumar and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Naveen Siwach, Advocate
for the petitioners.

Mr.Jarnail Singh Saneta, Advocate for
Mr.Kulwant Singh Dhanora, Advocate
for respondent No.1.

Mr.Lalit Garg, Advocate
for respondent No.3.

ARCHANA PURI, J.

The matter has been taken up through video conferencing in the light of COVID-19 pandemic.

Through the present revision petition, the petitioner has sought quashing of the impugned order dated 16.08.2021 (Annexure P-2), vide which, an application to lead additional evidence has been dismissed.

A perusal of the record reveals that Shila Devi and others, had filed claim petition for seeking compensation, on account of death of Ramesh Kumar s/o Kor Singh. When the case was fixed for arguments, an application for leading additional evidence was filed by the

petitioners/claimants. The copy of the said application has been placed on record as Annexure P-1. In fact, therein, it is stated on 15.05.2019, the evidence of the claimants was closed by Sh.Manpreet Sirswa, Advocate, on their behalf and thereafter, claimants have engaged Sh.Mohit Arora, Advocate, as their counsel. In the application, it is mentioned that some material witnesses were not summoned by the previous counsel of the claimants-petitioners. In fact, statement under Section 161 Cr.P.C. of an eye witness, namely Ramesh Kumar s/o Mani Ram r/o village Dhanoti Bari was recorded by ASI Vidya Dhar, Investigating Officer of the case. Now, the claimants want to summon said Investigating Officer, with original case file, to prove the case. After hearing the parties concerned, vide impugned order dated 16.08.2021, an application was dismissed.

Feeling aggrieved by the impugned order, present revision petition has been filed.

I have heard learned counsel for the petitioner as well as learned counsel for the respondents No.1 and 3 and have gone through the record.

At the very outset, it is pertinent to mention that in the reply, there is no mention made, as to whether, any attempt has been made to examine Ramesh Kumar s/o Mani Ram, r/o village Dhanoti Bari, whose statement under Section 161 Cr.P.C. is intended to be proved by way of examination of Investigating Officer of the criminal case. However, on query by the Court, it has been disclosed by learned counsel for respondent No.3-Insurance Company that said witness had already been examined as PW-4 before the Tribunal, at the time, when an application for leading additional evidence was filed. Learned counsel for the petitioners did not

challenge the said statement made by learned counsel for respondent No.3. In fact, only statement under Section 161 Cr.P.C. is required to be proved by way of examination of Investigating Officer, which is too vague a plea, so taken. No reason has been assigned by learned counsel for the petitioners as to why the said statement was not earlier proved, more particularly, when the record relating to the report under Section 173 Cr.P.C., was proved by way of examination of PW-2, who is a criminal Ahlmad of the Court. At that time, there was an opportunity available with the claimants-petitioners to bring on record the statement under Section 161 Cr.P.C., if so desired.

It has been rightly observed by Tribunal that it was after availing six effective opportunities and after closure of the evidence that the said application has been filed, more particularly, when it has been mentioned in the application that the case is now fixed for rebuttal and arguments.

In the given circumstances, there is no merit in the present petition and as such, the same is hereby dismissed.

December 22, 2021
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No