

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

-.-

CR No. 2045 of 2021

Date of decision: 21.09.2021

Vinod Kumar and others

.....*Petitioners*

Versus

Sudhir Kumar and others

.....*Respondent*

Coram: Hon'ble Mr. Justice Rajbir Sehrawat

-.-

In virtual Court

Present: Mr. Puneet Kakkar, Advocate
for the petitioner

-.-

Rajbir Sehrawat, J. (Oral)

The instant petition has been preferred by the petitioners under Article 227 of the Constitution of India seeking setting aside impugned order dated 08.03.2021 passed by the Motor Accident Claims Tribunal, Faridabad (in short, 'the Tribunal'), vide which, evidence of the petitioners has been closed by Court order, being wrong, illegal and arbitrary.

It is submitted by counsel for the petitioners that the evidence of the petitioners, who are the claimants in the Motor Accident Claim case, have been wrongly closed on the ground of non-production of the witnesses. It is further submitted by counsel for the petitioners that one of the material witnesses, Kuldeep Saxena, who was stated before the Court below to be unwell, was so stated as was disclosed by his family members. However, the

subsequent inquiries revealed that the said witness was, in fact, lodged in jail. Therefore, the said witness could not appear before the Tribunal. The petitioners express regrets for not having conveyed the correct information to the Tribunal. However, since non-production of the witness(es) was not intentional, therefore, the petitioners deserve one more opportunity to lead their evidence in support of the claim.

A perusal of the impugned order shows that the petitioners have been granted ten effective opportunities to conclude their evidence. Despite that, they failed to do so. Repeatedly, the case was got adjourned for production of PW Kuldeep Saxena, who is stated to be the main witness in the case. Still he was not produced as witness. Therefore, this Court does not find any legal and manifest error with the impugned order passed by the Tribunal as such. However, since the petitioners have now come up with a story that the aforesaid witness was lodged in jail and it was beyond their control to produce him before the Tribunal, this Court is of the view that the petitioners deserves some leniency in the matter. Moreover, it is equally true that while doing complete and substantial justice, technicalities must not be allowed to stand in the way of imparting justice. Hence, in the considered opinion of this Court, it would not be unjustified if the petitioners are granted one more opportunity to conclude their evidence, however, by putting them under an appropriate financial burden.

Accordingly, the present petition is disposed of with direction to the Tribunal to afford one effective opportunity to the petitioners to lead their evidence. However, this opportunity is subject to payment of Rs.5,000/- as costs, to be deposited with the District Legal Services

Authority, Faridabad. The Tribunal shall grant an opportunity to the petitioners to lead their evidence only on production of receipt for having deposited the costs, as ordered above.

(Rajbir Sehrawat)
Judge

21.09.2021

Mohan Bimbura

Whether speaking/reasoned: Yes/No

Whether reportable : Yes/No