

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

CR-2143-2021

**Date of Decision: 29.09.2021**

Karun Kalra

...Petitioner

versus

Geeta Verma and others

...Respondents

**Coram: Hon'ble Mr. Justice Arun Monga**

Present : Mr. Brijender Kaushik, Advocate, for the petitioner.

(Presence marked through video conference).

**Arun Monga, J. (oral)**

Present revision petition is to set aside the order dated 13.09.2021 (Annexure P-7) passed by learned Motor Accidents Claims Tribunal, Ambala in MACP No.173 of 2019 titled as 'Smt. Geeta Verma and another vs Karun Kalra and another', whereby, the application moved by the petitioner/owner-cum-driver for adducing additional evidence has been dismissed.

2. Learned counsel for the petitioner submits that respondents No.1 and 2 filed a claim petition before the learned Motor Accidents Claims Tribunal, Ambala, for grant of compensation to the tune of Rs.50,00,000/- on account of death of their daughter, namely, Shweta Verma, who died in motor vehicular accident occurred on 07.03.2019. Upon notice, reply was filed by the petitioner. He further submits that the petitioner was given only one month's time to lead his evidence, which was closed on 01.03.2021. Then, the petitioner filed an application on 27.07.2021 for adducing

additional evidence to prove his case and the same was dismissed vide impugned order dated 13.09.2021.

3. I have heard learned counsel for the petitioner and gone through the case file.

4. The application seeking additional evidence was filed before the learned Tribunal in a very mechanical manner without stating the reasons as to how and why the evidence sought to be adduced in addition to the earlier one was not previously known to the petitioner at the time he was given the opportunity before the same was closed on 01.03.2021. Nor there is any reasoning given therein as to why it could not be adduced earlier despite due diligence on the part of the petitioner. It would be relevant to mention here that prior to amendment of Code of Civil Procedure (Amendment) Act 46 of 1999, Order XVIII Rule 17A empowered a trial Court to entertain an application for production of evidence not previously known or which could not be produced despite due diligence. However, the said Rule 17A, which was earlier inserted by Act 104 of 1976 vide Section 69 (viii) with effect from 01.02.1977 was repealed vide Section 27 (iii) with effect from 01.07.2002.

5. Be that as it may, the petitioner's evidence was closed on 01.03.2021 and even otherwise the application has been filed belatedly as an after thought on 27.07.2021 perhaps only to overcome the lacuna in the earlier evidence adduced without explaining the delay and such a recourse is not permissible, even under the inherent powers conferred under Section 151 CPC, more particularly when a specific provision Rule 17A *ibid* has been repealed vide the Code of Civil Procedure amendment Act 46 of 1999 with effect from 01.07.2002. The inherent powers are not supposed to be

exercised in the manner so as to frustrate the repealing of a specific provision.

6. Further more, position being clear in law that the evidence is to be led only qua the pleadings of the parties and anything beyond the pleadings is not admissible. A perusal of the written statement would reveal that there is no reference of the facts qua which the additional evidence is sought to be adduced and therefore, no interference is called for in the order dated 13.09.2021 passed by the trial Court impugned herein, which is premised on the following reasoning :-

*“The applicant by way of additional evidence wants to produce on record the CD/photographs of the day of alleged accident showing that the deceased herself was driving the car in question and the alleged eye witness Parveen Kumar was not there in the car with them. However, no such CD or any photographs are annexed with the application. No copy of any complaint/DDR has been annexed with the application by the applicant to show that his phone was earlier lost at the time of alleged accident or that he has been falsely implicated in the case by the police in connivance with the claimants. No copy of any record of MM Institute Mullana regarding alleged attendance of deceased and respondent No.1 on the day of accident, has been annexed with the application. The said evidence was already in the knowledge of the applicant-respondent No.1 and he could very well produce all such evidence earlier when the case was fixed for the evidence of respondents. He could also appear in the witness box but he failed to do so for the reasons best known to him. He has already availed sufficient opportunities for his evidence. Even there is no mention in the written statement filed by respondent No.1 qua the stand now taken by the applicant-respondent No.1 that the deceased herself was driving the car in question and that eye witness Parveen was not there in the car with them. He cannot be allowed to improve his case. Further, the claimants have already examined the eye witness Parveen Kumar as well as IO of the case and they were duly cross-examined by the applicant, but no such suggestion was put to the said witnesses qua the stand now taken by the applicant in his application. Admittedly, the FIR was registered against respondent No.1 and he is facing the trial. Even the matter was also investigated by the police and IO of the case, SI Naresh Kumar has appeared as PW3 in this case and during cross-examination by respondent No.1, the said witness has specifically stated that during investigation, he found that accident in question took*

*place due to rash and negligent driving of Karun Kalra (Applicant-respondent No.1) who was driving the car at that time. The application clearly seems to have been filed with an attempt to delay the proceedings and disposal of the case. This Court does not find any merit in the application.”*

7. In view of the valid reasons recorded by the trial Court to dismiss the application for adducing additional evidence, the instant petition is also dismissed.

**29.09.2021**  
Gurpreet/vs

**(Arun Monga)**  
**Judge**

|                            |        |
|----------------------------|--------|
| Whether speaking/reasoned: | Yes/No |
| Whether reportable:        | Yes/No |