

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

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CR No.2294 of 2021
DATE OF DECISION : 9th NOVEMBER, 2021

Ashok Kumar & another

.... **Petitioners**

Versus

Sourav Kumar & Others

.... **Respondents**

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court

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Present : Mr. Namit Gautam, Advocate for the petitioners.

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RAJBIR SEHRAWAT, J. (Oral)

This revision petition under Article 227 of the Constitution of India has been filed for setting aside order dated 02.09.2021 (Annexure P-2) passed by the Motor Accident Claims Tribunal (in short, the Tribunal), SBS Nagar, whereby the defence of the petitioners has been struck off by order; for not filing written statement, along with certain other prayers.

It is submitted by the counsel for the petitioner that although the case has been pending before the Tribunal for about one year, however, the petitioners could not file the written statement because of the prevalence of COVID-19 pandemic situation. The petitioners are residents of Uttar Pradesh. Therefore, they could not visit Jalandhar on account of lockdown on some times and on account of non-availability of

necessary means because of the pandemic situation; on other occasions. However, the petitioners have come to know now that the Tribunal has struck off the defence of the petitioners and has framed the issues so as to proceed further with the proceedings of the claim petition. The counsel has further submitted that the non-filing of the written statement by the petitioners, so far, was on account of situation and circumstances beyond their control. The said default was not intentional on the part of the petitioners. In any case; the proceedings are at the initial stage. Therefore, it would be in the interest of justice if the petitioners are granted one more opportunity to file the written statement so as to put up their case before the Tribunal in the right earnest.

In view of the nature of the order, which is being passed herein below, this court does not consider it necessary to issue the notice to opposite side.

A perusal of the zimini orders, which have been reproduced in the petition itself, make it clear that the Tribunal has granted sufficient opportunities to the petitioners to file their written statement. The petitioners were granted even the 'last opportunity' several times, subject to payment of costs. However, neither the costs were deposited nor the written statement was filed by them. Hence, the order passed by the court below does not suffer from any illegality or impropriety, as such. However, if the petitioners are deprived of the opportunity to contest the claim petition, that would permanently prejudice the case of the petitioners. Hence, the ends of justice require that the petitioners be granted one more opportunity to file the written statement. Moreover, in case of the competition between the substantial justice and the procedural

aspects, it is the substantial justice which has to be favoured by this court. Hence, it would not be unjustified if the petitioner is granted one more opportunity to file the written statement but by putting them to appropriate financial burden.

In view of the above, the impugned order dated 02.09.2021 (Annexure P-2) passed by the Tribunal is set aside and the present petition is disposed of with a direction to the Tribunal to grant one more effective opportunity to the petitioners to file their written statement(s) and, thereafter, to defend the claim petition accordingly. However, this opportunity is subject to payment of ₹15000/- as cost; to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh, within a period of two weeks from today. It is clarified that the trial court shall grant this opportunity to the petitioners only on production of the receipt of having deposited the cost; as ordered above.

9th NOVEMBER, 2021
‘raj’

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>