

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-2619-2020 (O&M)

Date of Decision: January 13, 2021

ITBP FORCE THROUGH ITS COMMANDANT MPSD ITBP FORCE
..... PETITIONER(s)

Versus

VIJAY KUMAR JOSHI AND OTHERS RESPONDENT(s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Anita Balyan, Advocate
for the petitioner.

Dr. Naresh Kaushik, Advocate
for respondent no.1.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to the outbreak of pandemic, COVID-19.

Petitioner seeks setting aside of order dated 04.02.2020 (Annexure P-8), passed by the learned MACT, Panchkula, whereby defence of the present petitioner has been struck off as written statement was not filed despite numerous opportunities.

Learned counsel for the petitioner submits that the petitioner was earlier proceeded ex-parte before the learned MACT in the claim petition under Section 166 of the Motor Vehicles Act, filed by respondent no.1. Said ex-parte proceedings were set aside on 30.09.2019 (Annexure P-7). Written statement could, however, not be filed well within time due to unavoidable administrative exigencies, which were totally beyond the control of the petitioner.

Learned Tribunal vide impugned order dated 04.02.2020 (Annexure P-8) directed the petitioner's defence to be struck off and the matter adjourned for evidence of the claimant. It is submitted that next date of hearing before the learned Tribunal is 20.01.2021. The matter was not taken up for effective hearing in the interregnum due to outbreak of pandemic, COVID-19.

Learned counsel for the petitioner submits that the petitioner undertakes submission of written statement on or before 20.02.2021 and further undertakes that there would be no delay in the proceedings on their part. In case, impugned order is not set aside manifest in justice shall be caused to the petitioner, whose vehicle was involved in the accident in question.

Learned counsel for respondent no.1, however, submits that the matter has unnecessarily been delayed by the petitioner in the claim petition filed by respondent no.1 seeking compensation on account of injuries suffered by him in the accident in question. It is thus prayed that this petition be dismissed.

I have heard learned counsel for the parties and have gone through the file.

Ex-parte proceedings against the petitioner were set aside on 30.09.2019 and the matter was adjourned to 11.11.2019 and thereafter, was listed for 04.02.2020, on which date, defence of the petitioner has been struck off as written statement was not filed. Petitioner is a respondent in the claim petition filed by respondent no.1 under Section 166 of the Motor Vehicles Act. Petitioner's vehicle was involved in the accident in question

and compensation is sought by the claimant for the injuries/disability suffered by him in the accident allegedly caused by rash and negligent driving of the said vehicle. In case, petitioner is unable to file written statement and its defence is struck off, it will indeed cause prejudice to the petitioner, who can however be put to terms in the factual matrix of the case.

Keeping in view the facts and circumstances of the case as well as the specific undertaking on behalf of the petitioner before this Court, it is considered just and expedient to afford one opportunity to the petitioner to file written statement, subject to payment of cost.

Accordingly, impugned order dated 04.02.2020 (Annexure P-8) is set aside to the extent, defence of the petitioner is struck off. In case the petitioner submits the written statement on or before 20.01.2021, same be accepted, subject to deposit of Rs.20,000/- as cost to be paid to respondent no.1. It is made clear that no further opportunity shall be afforded in case written statement is not filed on or before 20.01.2021 and impugned order dated 04.02.2020 shall automatically stand revived.

Revision petition is disposed of accordingly.

13.01.2021

Sunil

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No