

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

115-A

CR No.2930 of 2021
DATE OF DECISION : 23rd NOVEMBER, 2021

M/s. Thuhi Grain Products, 92, New Grain Market, Nabha, Patiala
.... Petitioner

Versus

Harbans Singh & another
.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court
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Present : Mr. Harshit Jain, Advocate for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

This revision petition under Article 227 of the Constitution of India has been filed by the petitioner for setting aside order dated 12.11.2021, whereby the Motor Accident Claims Tribunal, Sangrur has closed evidence of the petitioner by passing order in MACP/09/2019 titled as Harbans Singh Vs. Salim Khan Etc. with a further prayer to grant one effective opportunity to the petitioner to tender his evidence.

It is submitted by counsel for the petitioner that earlier the case was fixed for evidence of the petitioner, who is respondent in the claim petition before the Motor Accident Claims Tribunal, Sangrur (in short, the 'Tribunal'), being owner of the vehicle. The petitioner intended to examine himself as a witness before the Tribunal. For that purpose, the petitioner was to file his statement in affirmative by way of an affidavit. The said affidavit was got prepared on 08.10.2021. However, on the said date, instead of taking up the case for evidence, the matter was referred to the mediation for exploring the possibility of an

amicable settlement of the dispute between the parties. However, the mediation could not succeed and the case was adjourned for evidence of the petitioner for 10.11.2021, vide order dated 26.10.2021. However, on that date the petitioner could not appear before the Tribunal on account of his illness, but the matter was again adjourned for two days for 12.11.2021 for the same purpose. Again on the said date the petitioner could not appear before the Tribunal because the petitioner had contracted the problem of dengue and his platelets had gone down much below the standard level. This problem, though improved, but continued even up to 14.11.2021. However, the court closed evidence of the petitioner vide impugned order dated 12.11.2021 itself; and the matter was fixed for rebuttal evidence. Accordingly, it is submitted by the counsel for the petitioner that the petitioner never intended to delay the proceedings. The petitioner had every intention to lead evidence on his part. But he was prevented by the circumstances beyond his control from leading his evidence on the date fixed by the court for the said purpose. Hence, the petitioner deserves to be granted one more opportunity to lead the evidence.

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, at this stage.

A perusal of the record shows that earlier the case was adjourned by the Tribunal for 08.10.2021. Although before 08.10.2021 the case might have been adjourned for evidence of the petitioner several times, however, the petitioner may not even be at fault because of the unfortunate prevalent Covid-19 pandemic situation. The record also shows that on 08.10.2021 the petitioner had got his statement in affirmative prepared and affirmed and the same was to be led in evidence. However, on 08.10.2021 the matter was referred to the

mediation. The mediation did not fructify in any positive result. Therefore, the matter was again posted for evidence of the petitioner for 10.11.2021. The documents, which the petitioner has now placed on record, shows that the platelets of the petitioner had gone to the level of 65000 on 10.11.2021; suggesting that he was, in fact, suffering from the problem which he has claimed in his submissions. The said problem was not fully remedied even up to 14.11.2021 as per the report of the lab, which has been placed on record by the petitioner. Hence, this court finds substance in the argument of the counsel for the petitioner that the default of not leading the evidence on the date fixed by the court, was due to the reasons which were beyond his control. Otherwise also, the objective of the court process is to adjudicate and settle the dispute after granting hearing to both the sides and not by excluding the consideration of case of either of the parties. Therefore, it would be in the interest of justice if the petitioner is granted one more opportunity to lead the evidence, whatever he wants to lead on his behalf.

In view of the above, the impugned order dated 12.11.2021 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 petitioner to lead whatever evidence the petitioner wants to lead; and thereafter, to defend the claim petition accordingly.

23rd NOVEMBER, 2021
'raj'

(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:

Yes

No

Whether Reportable:

Yes

No