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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CR-298-2022 (O&M)****Date of Decision: December 06, 2022**

Parshani and others Petitioners

Versus

Palvinder Singh and another Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJAPresent:- Mr.Ashit Malik, Advocate for the petitioners.
Mr. R.S. Bajwa, Advocate for respondent No.1.

HARKESH MANUJA, J. (ORAL)

By way of present revision petition challenge has been made to an order dated 20.12.2021 (P-4) passed by learned Motor Accidents Claims Tribunal, Karnal, (for short 'the Tribunal'); whereby application filed at the instance of petitioners/ claimants (hereinafter referred to as 'the petitioners') seeking permission to lead additional evidence has been declined.

Brief facts of the case are that the petitioners being dependents upon one Deepak, who lost his life in a road accident on 31.03.2018, filed a claim petition against the respondents. One FIR No. 354 dated 01.04.2018, under Sections 279, 337 IPC (Sections 338 & 304 A IPC added later on) was also registered at Police Station Karnal, regarding the alleged accident.

In the claim petition, the evidence of the petitioner was closed by the Tribunal on 07.02.2020. Thereafter, on 08.10.2021, petitioners moved an application seeking permission to lead additional evidence in the shape of photographs of the offending

vehicle as well as praying for examination of Parveen Kumar son of Lajja Ram and Aniket son of Rajinder Singh the alleged eye-witness to the accident in question. The prayer made in the aforesaid application was opposed at the instance of respondents by filing their objections to the same. Learned Tribunal vide order dated 20.12.2021 rejected the prayer made at the instance of petitioners. It is the said order which has been impugned by way of present revision petition.

Learned counsel for the petitioners submits that evidence sought to be now produced by way of additional evidence goes to the root of the matter as the same would help the learned Tribunal to adjudicate upon the claim petition in an effective manner. Learned counsel also submits that the evidence now sought to be proved could not be produced earlier on account of some inadvertence.

On the other hand, learned counsel for respondent No.1 submits that the petitioners are in fact trying to fill up the lacuna by seeking permission to lead additional evidence. He also submits that there has been an inordinate delay on the part of petitioners seeking permission to produce the additional evidence.

I have heard learned counsel for the parties and gone through the paper-book including the impugned order and find substance in the submissions made on behalf of the petitioners. A perusal of the impugned order shows that while adjudicating upon the application filed on behalf of the petitioners seeking permission to lead additional evidence, learned Tribunal has in fact exceeded its jurisdiction while commenting upon the merits of the claim petition

itself by recording findings on the issue of happening of the alleged accident in question. Learned Tribunal has also travelled beyond the scope of jurisdiction while dealing with an application to lead additional evidence sought to be produced which was not even called for at this stage.

While deciding the prayer made at the instance of petitioners, learned Tribunal was merely to assess as to whether there was any due diligence on the part of petitioners or the evidence now sought to be produced was necessary and relevant for the Tribunal so as to help it to decide the rights between the parties to the claim petition in a complete and effective manner.

A perusal of the application filed at the instance of petitioners shows that they intend to examine two alleged eye-witnesses besides few photographs of the offending vehicle. In my view, in the facts of the present case, the examination of eye-witness would infact help the Tribunal to adjudicate upon the factum of accident and thus, merits of the claim petition in a complete and effective manner. Though, it may not be a case where the petitioners apparently acted with reasonable diligence while leading their evidence, however, considering the fact that the proceedings are pending before the Tribunal arising out of the claim petition filed by the dependents of deceased and therefore, rather than deciding the rights of the parties on the basis of hair-splitting technicalities, Tribunal should have adopted a pragmatic approach by affording adequate and sufficient opportunity to the petitioners for proving their case; at least the factum of accident in question.

In view of the discussion made hereinabove, the revision petition is allowed. Impugned order dated 20.12.2021 (P-4) is hereby set aside and the application filed at the instance of the petitioners to examine two alleged eye-witnesses and to produce photographs of the offending vehicle is allowed.

Pending application(s), if any, shall also stand disposed of.

December 06, 2022
sanjay

(HARKESH MANUJA)
JUDGE

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