

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

**CR-7733-2016 (O&M)
Date of decision : 14.03.2022**

United India Insurance Company Ltd.

... Petitioner(s)

Versus

Sukhjit Kaur and Others

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gopal Mittal, Advocate for the petitioner.

Mr. Gurbhej Singh, Advocate for
Mr. Ashish Gupta, Advocate for respondent Nos.1, 2 and 5.

Mr. Basant Sharma, Advocate for
Mr. D.S. Malwai, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

Heard in physical mode.

The present revision petition has been filed under Article 227 of the Constitution of India challenging the impugned order dated 07.10.2016 passed by the Motor Accident Claims Tribunal, Moga (for short the 'Tribunal').

Learned counsel for the petitioner would contend that the driver and owner of the vehicle in the present case had been proceeded against *ex parte* and were not contesting the claim petition. An application was moved by the present petitioner under Section 170 of the Motor Vehicles Act, 1988 which according to learned counsel for the petitioner has been dismissed vide order dated 07.10.2016.

Per contra, learned counsel for respondent Nos.1, 2 and 5 has stated that a perusal of the impugned order dated 07.10.2016 clearly reveals that the said prayer has in fact been granted and the application has been disposed off vide order dated 07.10.2016 contrary to the argument made by learned counsel for the petitioner.

Heard.

A certified copy of the application has been handed over in Court by learned counsel for the petitioner which is a one-page application and reads as under:-

“Application u/s 170 MV Act,

Sir,

The applicant submits as under:-

- 1. That above noted claim petition is pending in this Hon'ble Court and fixed for today.*
- 2. That the respondent No.2 is ex parte. The applicant-Insurance Company wants to take all available grounds of defendant.*

It is therefore prayed that the applicant may please be allowed to take all the available grounds of defence.”

Vide impugned order dated 07.10.2016 it has been held as under :

“Application for directing the respondent No.1 to produce the certificate of registration, route permit and fitness certificate of the canter in question is also pending. Respondent No.1 has already filed reply to the said application that since he was driver of the said canter, therefore, he is not in possession of said documents. In these circumstances, respondent No.1 cannot be directed to produce the said documents.

Respondent No.2 has already been proceeded against ex parte after his service by way of publication. Therefore, no useful purpose is likely to be served by giving fresh notice of the application to him. Insurance Company can take the appropriate steps to prove its allegations. So far as drawing of adverse inference against respondent No.2 is concerned, said matter shall be considered at the appropriate state. Accordingly, said application stands disposed of.”

A perusal of the above reproduced contents of the application as well as the impugned order clearly reveals that as prayed in the application under Section 170 of the Motor Vehicles Act, 1988, the prayer stands granted. There is no other prayer which had been made in the application.

As far as the application under Section 170 of the Motor Vehicles Act, 1988 is concerned, the same stands disposed off as it has specifically been stated in the impugned order that the Insurance Company can take all appropriate steps to prove its allegations.

Learned counsel for the petitioner has pointed out that there is another application pending for directing respondent Nos.1 and 2 to produce the certificate of registration, route permit and fitness certificate of the canter in question, however, it is stated that the said application has still not been decided and he would be raising all appropriate arguments at the time when the said application is decided.

In view of the above the present petition which is devoid of any merit is dismissed.

However, in view of the fact that the accident pertains to the

year 2002, the Tribunal is directed to expedite the hearing of the case and decide the same preferably within a period of 8 months from the date of passing of this order.

14.03.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO