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

**214**

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**CR No. 7878 of 2016 (O & M)**
**Date of decision : 17.8.2022**

**Manjeet Kumar** ……**Petitioner**

**Vs.**

**Ashok Kumar Pathak and others** ……**Respondents**

**CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. Mohinder Singh, Advocate, for the petitioner

Mr. Shekhar Verma, Advocate, for respondents No. 1 & 2

Mr. Rajneesh Malhotra, Advocate, for respondent No.3

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**TRIBHUVAN DAHIYA, J. (Oral)**

This revision petition under Article 227 of the Constitution of India has been filed for setting aside the order dated 9.8.2016 (Annexure P-1), passed by the Motor Accident Claims Tribunal, Gurgaon (in short 'the Tribunal'), dismissing the petitioner's application for leading additional evidence.

The petitioner had approached the Tribunal by filing an application to lead additional evidence to prove income tax return of the Assessment Year 2013-14 (Financial Year 2012-13), filed by PW-6 Rajinder Kumar, Proprietor of M/s Krishan Constructions Developers and Builders, Jacobpura, Gurgaon, who is claimant's employer.

The said application was dismissed by the Tribunal vide order dated 9.8.2016 by holding that the document was already in the knowledge of the petitioner and he never made any effort to summon the witness from the concerned department for his evidence. Besides, the income tax return was not depicting actual salary being given to the petitioner. A review application filed by the petitioner against the order dated 9.8.2016, was also dismissed by the Tribunal vide order dated 30.9.2016 (Annexure P-2). It was also observed by the Tribunal that the application was filed only to prolong the case before it.

The income tax return filed by the employer is an authenticated record. The ground for bringing it on record by way of additional evidence pleaded by the petitioner was that he was not in possession of the income tax return of PW-6 earlier, nor could he have had its possession.

The additional evidence sought to be produced on record, i.e., income tax return of the employer for the Assessment Year 2013-14 (Financial Year 2012-13), is a material document to establish facts relevant for determining real controversy in the claim petition. The Tribunal has fell in error in declining prayer for additional evidence by holding that the income tax return would not be helpful while deciding the petition in question. The relevance of the income tax return and examination of a witness for the purpose, cannot be under-estimated, as it is a vital document to establish relevant facts regarding claimant's income before the Tribunal.

The other reason given by the Tribunal, that the application for amendment was merely to prolong the case, cannot be accepted for the simple reason that the petitioner is the claimant himself and any delay in the case would only be to his prejudice. He would not be interested in delaying the case; rather, he would always be interested in speedily concluding the same. Even otherwise, there is nothing on record, nor anything has been pointed out by the Tribunal, which could indicate an intention to prolong the case by the petitioner/claimant.

Therefore, this revision petition is allowed. Order dated 9.8.2016, passed by the Tribunal is set aside. The petitioner/claimant is permitted to lead additional evidence for producing the income tax return of the Assessment Year 2013-14 (Financial Year 2012-13), submitted by PW-6 Rajinder Kumar, Proprietor of M/s Krishan Constructions Developers and Builders Jacobpura, Gurgaon, who is claimant's employer and to examine a witness for the purpose on one date. No further adjournment shall be granted for the purpose.

In that eventuality, needless to say, the respondents will also be entitled to cross examine such a witness.

Since the main petition has been decided, all the pending miscellaneous applications, if any, stand disposed of as having been rendered infructuous.

**(TRIBHUVAN DAHIYA)**
**JUDGE**

**17.8.2022**
Ashwani

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No