IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(258) CR-857-2017 (O&M)
Date of Decision : 11.05.2022

ICICI Lombard General Insurance Co. Ltd. ……Petitioner

Versus

Rakesh Sharma alias Ashwani and Others ……Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. Sandeep Bansal, Advocate for respondent No.1.

ALKA SARIN, J. (Oral)

This is a revision petition under Article 227 of the Constitution of India for setting aside the order dated 05.11.2016 (Annexure P-1) passed by the Motor Accident Claims Tribunal, Hoshiarpur vide which the application of the petitioner under Order 6 Rule 17 CPC for amendment of the written statement has been declined.

The brief facts relevant to the present *lis* are that respondent No.1-claimant filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 for grant of compensation to the tune of Rs.1,00,00,000/- on account of injury sustained by him due to the alleged motor accident which had taken on place on 12.05.2014. It was claimed that the accident has rendered the respondent No.1-claimant bed-ridden. The claim petition was contested by the private respondents as well as the petitioner-insurance company. During the cross-examination of AW-2

Ashok Kumar it transpired that the Police had investigated the matter and found that the accident took place due to rash and negligent driving of the deceased (Ram Pal Sharma) who was driving the ill-fated car and there was no other vehicle which was involved in the accident. It also transpired that FIR No.49 dated 12.05.2014 was cancelled by the Police authorities after thorough investigation. After the cross-examination of AW-2 Ashok Kumar, the petitioner-insurance company moved an application under Order 6 Rule 17 CPC for amendment of the written statement seeking to incorporate the said facts. The application was contested by the respondent No.1-claimant. Vide the impugned order the application for amendment was dismissed holding that the proposed amendment was not essential for the adjudication of the case.

Learned counsel for the petitioner-insurance company would contend that the facts sought to be pleaded by way of the amendment are subsequent events which are germane to the controversy in hand inasmuch as it is during the pendency of the claim petition that it has transpired that FIR No.49 dated 12.05.2014 has been cancelled and these are the only facts which the petitioner-insurance company wishes to bring on the record by way of the proposed amendment.

Per contra, learned counsel for respondent No.1-claimant has vehemently contended that the said facts are not relevant inasmuch as nothing would turn even if the FIR had been cancelled though as per the instructions received by the learned counsel the FIR has till date not been cancelled. The cancellation report though prepared has not been presented till date.

Heard.

In the present case the stand taken by the petitioner-insurance company in Para 8 of it's written statement was that no accident had taken place between the cars bearing registration Nos.JK-08-L-8622 and PB-08-CF-2581 and, hence, the claim petition was not maintainable. The proposed amendment is only clarificatory in nature inasmuch as it is during the pendency of the claim petition that the facts sought to be included have arisen. The amendment would not in any manner cause any prejudice to the respondent No.1-claimant which cannot be compensated by way of costs.

In view of the above, the present revision petition is allowed. The proposed amendment is accepted subject to payment of Rs.50,000/- as costs payable to the respondent No.1-claimant. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

May 11, 2022
sandeep

Whether speaking/reasoned:- Yes/No
Whether Reportable:- Yes/No