

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 118

Civil Revision No.4037 of 2022
Date of Decision: September 21, 2022

The Oriental Insurance Co. Ltd.

..... PETITIONER(S)

VERSUS

Hardeep Kaur & others

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

. . .

PRESENT: - Mr. Rajiv Joshi, Advocate, for the petitioner.

. . .

Tribhuvan Dahiya, J (Oral)

This revision petition has been filed under Article 227 of the Constitution of India against order dated 30.05.2022, by which the Motor Accident Claims Tribunal, Hoshiarpur, by invoking its powers under Section 151 CPC allowed respondent Nos.1 and 2 (before the Tribunal) to recall PW-5, Kuldeep Singh, Junior Assistant, RTO Office, Hoshiarpur, for cross-examination by them.

Learned counsel for the petitioner submits that the impugned order is wrong as no plausible explanation has been given in application dated 22.03.2022 (Annexure P-4) filed by respondent Nos.1 and 2 for re-calling the witness. Learned counsel has placed reliance upon judgment of the Supreme Court in *Ram Rati vs. Mange (D) through LRs & others, 2016(2) R.C.R. 464* to contend that inherent

powers under Section 151 CPC should not have been invoked in this case.

A perusal of the application shows that in the pre-lunch session on 25.11.2021, the said witness, PW-5, was cross examined. His further cross examination was postponed to post-lunch session by directing him to bring the record pertaining to license of Jagir Singh, driver of the offending vehicle. In the post-lunch session, when the witness was again cross-examined by the counsel for the petitioner-Insurance Company *qua* driving license of Jagir Singh, the counsel for the applicant/respondent nos.1 and 2 could not be present to cross examine the witness as he was not aware about the new development.

In this background, the impugned order was passed by the Tribunal allowing the application to recall PW-5 for cross examination by the counsel for the applicant/respondent nos.1 and 2. There is no illegality or irregularity about it; especially when no prejudice is being caused to the petitioner-Insurance Company. The inherent powers under Section 151 CPC are meant to be invoked in such like situations to do meet the ends of justice.

The judgment relied upon by learned counsel for the petitioner in the case of *Ram Rati (supra)* has no application to the facts of this case, as the Supreme Court held that under Order XVIII Rule 17 CPC a witness cannot be recalled for helping the defendant by taking about-turn from the statement already made by him in the witness box. The provision has no application to the facts of the instant case. The witness, PW-5, has been recalled in the circumstances afore stated on

an application having been made specifically for the purpose, which is fully justified.

Dismissed.

(Tribhuvan Dahiya)
Judge

September 21, 2022
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No