

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

C.R NO. 1946 of 2018 (O&M)

DATE OF DECISION: 23.03.2023

Sushila and others

...Petitioners

Versus

Jaiveer and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Ravinder Rana, Advocate for
Mr. Vivek Khatri, Advocate,
For the petitioners.

None for the respondents.

ARUN MONGA, J. (ORAL)

Petition herein is for setting aside impugned order dated 26.02.2018 (Annexure P-5) passed by learned Motor Accidents Claims Tribunal, Jhajjar (for brevity 'Tribunal'), whereby claim petition was dismissed under Order 17 Rule 3 CPC.

2. Succinct facts first, as pleaded in the instant petition.

2.1. Petitioner/claimants filed claim petition under Section 166 of Motor Vehicles Act, 1988 for grant of compensation to the tune of Rs.50 lakh on account of death of deceased Jai Kumar @ Jai Kanwar (husband of petitioner No.1 and father of petitioners No.2 to 5).

2.2. Upon service, respondents No.1 and 2/driver and owner of alleged offending vehicle filed joint written statement, whereas respondent No.3-Insurance Company filed separate written statement.

2.3. From the pleadings of parties, issues were framed vide order dated 13.11.2017 and case was adjourned to 27.11.2017 for evidence of claimants. In all, four effective opportunities were granted to claimants to produce their evidence but they did not examine even a single witness, resulting into dismissal of claim petition under order 17 Rule 3 CPC vide order impugned herein. Hence, the revision petition.

3. Though learned counsel had caused appearance on behalf of respondent No.3-Insurance Company on 21.08.2019 but on resumed hearing today, none appears on behalf of respondent No.3, which is suggestive of the fact that respondent-Insurance Company does not want to contest the revision petition and consents to the same being allowed.

4. Heard.

5. Learned counsel for petitioners submits that after the death of husband of petitioner No.1, she was not keeping good health. He further contends that petitioners were not aware that in case they fail to produce the evidence, their claim petition will be dismissed. Petitioners are rustic villagers and are not aware of nuances of the Court proceedings. Learned Tribunal has passed the impugned order without appreciating the facts as well as hardships faced by petitioners on account of death of their sole bread earner of the family.

6. Rules of procedure are handmaid of justice and they should not be put in to such a strict iron cast so as to defeat the very ends of substantive justice.

7. In the premise, instant revision petition is allowed. Claim petition is ordered to be restored to its original number. Learned Tribunal

shall grant two effective opportunities to petitioners to adduce their evidence. It is expected of learned Tribunal to decide the matter expeditiously and proceed with the trial, without granting unnecessary adjournments, subject of course to its own volition depending upon the day-to-day work load.

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

MARCH 23, 20223
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : **Yes/No**

Whether reportable : **Yes/No**