

grant of compensation, on account of death of Vishal Singh in the motor vehicular accident.

3. The petitioner, as respondent no.4 in the aforesaid claim petition, filed the written statement (Annexure P-2).

4. The FIR under Section 304-A IPC (Annexure P-3) was registered in connection with the accident in question, in which challan has already been filed against the petitioner and respondent no.5 being drivers of Tractor and Maruti Breeza car respectively. The description of the tractor trolley involved in the accident was not mentioned in the FIR.

5. Learned counsel for the petitioner has argued that the petitioner is owner of the Tractor make Sonalika, Colour Blue, which was taken into custody by the police but the said Tractor never met with accident in question. An application was moved to the Senior Superintendent of Police for inquiry and during inquiry, it was found that the Tractor make Swaraj, owned by brother of the petitioner, was involved in accident and DDR to that effect was recorded. Challan has already been filed by the police in the Court showing involvement of Swaraj Tractor. It has further been argued that written reply was filed earlier and all the paras were denied for want of knowledge. The case is at the initial stage. No prejudice would be caused to the other party if the revision petition is allowed.

6. Learned counsel for respondents have submitted that the police took into custody Sonalika Tractor, owned by the petitioner, which was produced by the petitioner himself. There is no provision to conduct inquiry and change the offending vehicle, which was already found involved in the

accident. The amendment is being sought only for the reason that Swaraj Tractor was insured and Sonalika Tractor was not insured. So, the petitioner wanted to replace it in order to avoid the liability.

7. I have heard learned counsel for the parties and perused the case file.

8. The case is at the initial stage. The law of amendment is very liberal. Police had conducted the inquiry and it was found that Swaraj Tractor was involved in the accident in question. The petitioner has not denied that he was driving the Tractor at the time of accident and it is a question of evidence as to which vehicle was actually involved. Amendment to written statement can be disallowed if it is malafide. A party has got every right to take defence which suits to it. Evidence is yet not recorded.

8. Keeping in view all the facts and circumstances of the case that the matter is at the initial stage, the other party can file replication to the amended written reply and no prejudice is going to be caused to the other side, this revision petition is allowed and the impugned order dated 12.10.2021 (Annexure P-6), passed by learned Presiding Officer, Motor Accidents Claims Tribunal, Pathankot, is hereby set aside, subject to payment of Rs.2500/- as costs to be paid to the claimants positively on 06.09.2023 i.e. the date fixed before the learned Tribunal.

9. It is further clarified that in case of default of payment by the petitioner, this order shall automatically stand vacated.

10. The present revision petition stands disposed of in the aforesaid

terms.

11. Pending applications, if any, shall stand disposed of along with this judgment.

August 22, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.