

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR 1633/2020

Date of decision:07/02/2023

Sohan Lal

.....Petitioner

Vs.

Rajat Garg and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sagar Aggarwal, Advocate for the petitioner.
 Mr. RC Gupta, Advocate for the respondent

Nidhi Gupta, J.

Present revision petition has been filed for setting aside the impugned order dated 13.2.2020 (Annexure P-2) whereby application filed by the petitioner/ claimant u/o 9 Rule 4 CPC for restoration of claim petition has been dismissed by the Motor Accident Claims Tribunal, Kaithal (hereinafter referred to as 'the Tribunal').

In order to appreciate the controversy in hand, it is necessary to notice the following chronological sequence of events:-

CR 1633/2020

13.4.2018	Claim petition filed. Notice issue to respondent for 17.5.2018.
17/5/2018	Respondent no.3 appeared and fresh notice issued to respondents 1 and 2 for 9.8.2018.
9/8/2018	Notice to respondents 1 and 2 on filing correct address within one week, for 5/9/2018
5/9/2018	Correct address not filed. Same to be filed within one week. Fresh notice to respondents 1 and 2 for 22.11.2018.
22/11/2018	Address not filed. Fresh notice for 29/1/2019. Costs of Rs.250/- imposed.
29/1/2019	Correct address not filed. Cost not paid. Claim petition dismissed.
	Restoration application filed.
11/7/2019	Notice to respondent for 19/9/2019
19/9/2019	Service complete
5/11/2019	No objection to restoration by respondents 1 and 2
23/1/2020	For reply of respondent no.3
13/2/2020	Dismissed vide impugned order.

It is submitted by the learned counsel for the petitioner that vide impugned order the claim petition was dismissed as the petitioner had failed to pay costs of Rs.250/- imposed upon him as also had failed to file correct address of respondents No. 1 and 2 who are driver and owner of the offending vehicle respectively. It is submitted that the petitioner was unable to provide correct address of the said respondents as, respondent no.1/ driver of the offending vehicle was absconding; and petitioner could not get correct address of respondent no.2. It is further submitted that claimant had not been

informed by his counsel before the Tribunal, about filing of correct addresses of respondents 1 and 2, or regarding imposition of costs of Rs.250/- by the learned Tribunal for not furnishing correct address. It is submitted that time and again when the petitioner enquired from his counsel regarding the status of the case, he was informed that the case is proceeding and reply is awaited from the respondents.

It is submitted that the correct addresses of respondents 1 and 2 were filed along with the application for restoration in pursuance to which counsel for the said respondents had even admitted before the learned Tribunal and had given their no objection for restoration of the claim petition. It is further submitted that the learned Tribunal has dismissed the petitioner's application primarily on two grounds that the petitioner had failed to deposit the costs of Rs.250/- as imposed by the Tribunal; and secondly on account of delay of 64 days in filing the restoration application for which no application for condonation of delay was filed along with the restoration application. It is submitted that the petitioner is a layman who is unaware about the technicalities of the law and great injustice will be caused to the petitioner if his claim petition is not restored.

Learned counsel for the respondent Insurance Company has vehemently opposed the prayer of the petitioner. It is submitted by the learned counsel for the respondent Insurance Company that the accident had taken place as far back as on 16.2.2018 allegedly due to rash and negligent driving of car bearing registration NO. HR-08-P-8450/ offending car which is insured with the respondent Insurance Company. It is submitted that no application for condonation of delay of 64 days was filed by the petitioner along with his

restoration application and therefore, the present revision petition deserves dismissal.

No other argument has been raised by the learned counsel for the parties.

Heard Id. Counsel.

Perusal of the record shows that petitioner failed to furnish addresses of respondents 1 and 2 as, respondent no.1/ driver of the offending vehicle was absconding, and respondent no.2 was father of respondent no.1. Record further reveals that the petitioner had in fact, filed the claim petition mentioning therein the address of respondents no. 1 and 2, as was shown in the criminal case, as well as in the driving licence and registration certificate and insurance policy of the offending vehicle. It is only subsequently that the petitioner had discovered correct addresses of the respondents and had accordingly, filed restoration application. As regards payment of costs, it has already been stated by the learned counsel for the petitioner that petitioner is ready to pay the same.

In view of the above, present revision petition is allowed in the interest of justice, and the claim petition filed by the petitioner is restored to its original number before the learned Motor Accident Claims Tribunal, Kaithal by condoning the delay of 64 days. Petitioner is directed to appear before the Id. Tribunal on 13.3.2023, along with payment of Rs. 250/- as costs, failing which the petitioner's claim petition is liable to be dismissed without any further opportunity.

Further, in case the petitioner succeeds in his claim petition, he will not be entitled to interest for a period of five years from 16.2.2018/ the

date of accident till his date of appearance before the Tribunal, which is fixed as 13.3.2023.

Allowed in the above terms.

07/02/2023
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No