

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

**CR 1600/2023 (O&M)
Date of decision: 12.04.2023**

Bhagwan Singh and others

.....Petitioners

Vs.

Ashok and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sitanshu Sharma, Advocate
for the petitioners.

Nidhi Gupta, J.

CM-6272-CII-2023

1. Present application has been filed by the applicants/petitioners in pursuance to order dated 15.03.2023 passed by this Court, whereby learned counsel for the petitioner had sought time to place on record the rent agreement and the medical record of the counsel representing the petitioner before the Tribunal. Accordingly, by way of the present application, Petitioners seek to place on record Annexures P-6 to P-9 i.e. copy of Rent Agreements dated 24.10.2017 and 02.02.2023 as Annexures P-6 & P-7 respectively; copy of Counsel's medical record dated 06.07.2020 as Annexure P-8; and copy of Employees Provident Fund passbook dated 13.09.2022 as Annexure P-9.

2. For the reasons mentioned therein, application is allowed, and Annexures P-6 to P-9 are taken on record subject to all just exceptions.

Main case

1. Present revision petition has been filed by the claimants seeking setting aside of order dated 08.02.2023 (Annexure P-1) passed by the Id. Motor Accident Claims Tribunal, Faridabad, (hereinafter referred to as 'the Tribunal') whereby the petitioner's application (Annexure P-4) for placing on record additional evidence in MACP Case No.58 of 2018 instituted on 16.02.2018, has been dismissed.

2. Brief facts of the case are that the wife of the petitioner No.1 died in a road side accident on 26.10.2017 allegedly due to the rash and negligent driving of a three wheeler bearing No.UP-85-AT-7518 (hereinafter referred to as 'offending vehicle') being driven by respondent No.1 herein and owned by respondent No.2 herein and insured by respondent No.4 herein. Admittedly, the accident took place at Bharatpur (Rajasthan), as per the Aadhar Card the petitioners are residents of Unchagaon, Mathura UP, yet the petitioners filed their claim petition before the MACT, Faridabad, on the ostensible ground that the petitioners are residents of Faridabad. By way of the application for additional evidence (Annexure P-4), the petitioners had sought to inter-alia, produce the rent agreement between the petitioner No.1 and Maya; and copy of bank account of petitioner No.1. By way of the impugned order, the learned Tribunal has dismissed said application for additional evidence. Hence, present revision petition.

3. It is submitted by learned counsel for the petitioners that the petitioners were unable to produce the said documents - being the rent agreement between the petitioner No.1 and Maya, and the bank statement of

petitioner No.1, as initially the documents of proof of residential address of Faridabad at the time of filing the claim petition before the Tribunal, were not easily traceable as the same were in the custody of the deceased wife of petitioner No.1. It is submitted that subsequently, when the documents were eventually traced the same were handed over to counsel representing the petitioners before the Tribunal. It is stated that however, the counsel for the petitioners suffered a paralytic attack and he could, therefore, not place on record the documents before the Tribunal as additional evidence. It is submitted that by the time the counsel for the petitioners recovered, the matter before the Tribunal had already reached the stage of evidence in rebuttal and arguments. It is submitted that it is only on this ground that the petitioners were unable to produce proof of residence in Faridabad before the learned Tribunal at an earlier stage.

4. No other argument is raised by Id. Counsel for the petitioners.

5. I have heard learned counsel for the petitioners.

6. Perusal of the record of the case shows that the accident had taken place on 26.10.2017; petitioners had instituted the instant claim petition on 16.2.2018; issues were framed by the learned Tribunal as far back as on 07.08.2019; whereafter the petitioners had availed 23 opportunities to lead and produce their evidence which was closed only on 01.12.2021 i.e. after a period of almost 2 ½ years. Thereafter, even the evidence of the respondents was concluded before the Tribunal on 17.08.2022. Admittedly, application for additional evidence has been filed by the petitioner before the Tribunal only on 14.09.2022, when the matter was already at stage of rebuttal evidence if any, and for arguments.

7. Needless to say, the application for additional evidence has been filed by the petitioners at a greatly belated stage. Moreover, even the reason cited by the petitioners to explain this delay does not bear scrutiny. It has been stated that the petitioners were unable to produce the said documents – i.e. the rent agreement between the petitioner No.1 and Maya, and the bank statement of petitioner No.1 – at the appropriate stage as, the said documents were not easily traceable as the same were in the custody of the deceased wife of petitioner No.1. However, said explanation of the petitioners does not inspire the confidence of this Court as, date of accident is 26.10.2017, whereas, Rent agreement (Annexure P-6) relied upon by the petitioners to prove that they are residents of Faridabad is dated 24.10.2017, i.e. just two days prior to the accident. If the petitioners are indeed, residents of Faridabad since 2009 as claimed by them, then it is incongruous that their Rent Agreement is dated only 2 days prior to the accident.

8. Further, it seems unlikely that the deceased wife of the petitioner no. 1 had kept the passbook/ statement of bank account of the petitioner no. 1 in her such “secure custody” that it remained untraceable. It belies belief that the petitioner no. 1 would not have his own passbook/ statement of account. Even assuming the said explanation to be true, petitioner no. 1 could have easily procured a duplicate copy of his bank statement to place on record with the claim petition. Clearly, this is an attempt on part of the petitioners to fill the lacuna in their case.

9. Further, even regarding the Medical record of the counsel representing the petitioner before the Tribunal (Annexure P-8), perusal of the same reveals that the counsel; Mr. Avtar Singh Chawla, was admitted in the Supreme Hospital Faridabad on 02.07.2020 and discharged on

06.07.2020. The discharge summary (Annexure P-8) further shows that upon admission, in ‘Systemic Examination’ of the counsel Mr. Avtar Singh Chawla, the patient was found to be “conscious and oriented”. Learned counsel for the petitioner has been unable to show anything in the said discharge summary which may lead to the conclusion that the counsel Mr. Chawla was paralyzed.

10. Learned counsel for the petitioners has vehemently tried to persuade this Court that as per Annexure P-9 which is copy of statement of Employees Provident Fund (EPF) of the petitioner, the petitioner is shown to be a resident of Faridabad since 2009. However, this Court is not inclined to rely upon Annexure P-9 as, not only is Annexure P-9 not proved on record, but even as per the petitioner’s own saying, the petitioner had started living in Faridabad only since 24.10.2017, as evidenced from the rent agreement (Annexure P-6). Further, as per the Aadhar card of petitioner No.1 petitioner has been shown to be resident of Uchagaon, Mathura, Uttar Pradesh. It is to be noted that the said Aadhar Card of the petitioner no. 1 was issued on 27.09.2017, i.e. just about a month prior to the accident. Upon a specific Court query in this regard, learned counsel for the petitioners submits that this is a ‘mistake’. Ld. Counsel is therefore, unable to satisfactorily explain the above noticed discrepancies on record.

11. Therefore, for the reasons stated hereinabove, I find no ground is made out to interfere in the impugned order.

12. Present Revision petition is accordingly, **dismissed**.

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

12.04.2023

ps-I

Whether speaking/reasoned

Whether reportable

Yes

Yes/No

(Nidhi Gupta)
Judge