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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: May 08, 2023

ASI Balwinder Singh

....Petitioner

versus

Gurikbal Singh @ Billu and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Kewal Krishan, Advocate for
Mr. R.D. Rattewal, Advocate for revisionist.

ARUN MONGA, J. (ORAL)

Petition herein *inter alia* is for setting aside impugned order dated 14.03.2022 (Annexure P-1) passed by learned Motor Accidents Claims Tribunal, SBS Nagar (for brevity, 'Tribunal') whereby claim petition filed by petitioner was dismissed for non-compliance of order of learned Tribunal as he could not file correct/ complete address of respondents.

2. The revision petition is premised on the averments that petitioner-claimant filed claim petition for grant of compensation to the tune of Rs.15 lakh on account of serious and grievous injuries sustained by him in a motor vehicular accident, which took place on 22.07.2020 at about 7:30 a.m. near Bypass of Nawanshahar to Mahalon. FIR No.142 dated 22.07.2020, under Sections 279, 337, 427 of IPC, at Police Station City Nawanshahar, was also registered.

2.1. Complete/ correct address of respondents No.1 and 2 were supplied to learned Tribunal and processes were issued. However, notices were received back unserved due to incomplete addresses. Vide impugned order dated 14.03.2022 (Annexure P-2), claim petition was dismissed for non-compliance of order of learned Tribunal.

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3. Learned counsel for petitioner-claimant would contend that petitioner was not at fault since he had already supplied addresses to his counsel. He would further contend that learned counsel below did not convey any information/ message regarding status of his case and asked him to supply correct/ complete addresses of respondents No.1 and 2.

4. I have heard learned counsel for petitioner and perused the case file.

5. Perusal of addresses on the memo of parties as given in the claim petition reflects that complete and precise addresses of respondents No.1 and 2 have been given by mentioning house number as well as Sector along with registration number of offending car. And yet, despite multiple attempts, service could not be effected on them resulting in passing of impugned order wherein learned Tribunal observed that since claimant has failed to provide correct addresses of respondents No.1 and 2, despite opportunities in past, claim petition deserves to be dismissed. I am of the view that learned Tribunal has committed manifest error in law in summarily dismissing the claim petition without recording any finding *qua* the correctness or otherwise of the precise address mentioned in the memo of parties. That apart, learned Tribunal in the interest of justice could have given another opportunity to petitioner for taking further steps to serve both respondents. Respondent No.1 is also stated to have been undergoing a criminal trial arising out of the same accident *qua* which FIR No.142 dated 22.07.2020 *ibid* had been registered.

6. Trite law it is that procedure is a handmaid of justice and, ought not be given precedence at the cost of subjugation of substantive justice. They cannot be allowed to thwart real and substantial justice between the parties. The valuable right of litigants to establish their cases ought not to be taken away by learned Tribunal/Court except in a case of their deliberate omission/ failure to comply with

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the order of the Court. Prejudice would indeed be caused to petitioner herein, unless afforded an opportunity to serve the unserved respondents.

7. In the premise, since dismissal of claim petition would seriously prejudice the right of petitioner to seek compensation under the Motor Vehicles Act, 1988, I am of the view that impugned order is not sustainable and deserves to be set aside.

7.1. It is so ordered.

8. Claim petition is restored to its original number. Petitioner is permitted to take further steps as may be directed by the learned Tribunal to serve respondents No.1 and 2 including through their learned counsel who is representing them before trial Court, in case arising out of FIR No.142 dated 22.07.2020 *ibid*. Learned Tribunal shall also allow petitioner to serve them *dasti* apart from Court processes.

9. Disposed of, accordingly.

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

(ARUN MONGA)
JUDGE

May 08, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No