

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

**Civil Revision No. 4738 of 2023(O&M)
Date of Decision: 21.08.2023**

Karamjeet & Anr.

...Petitioners

Versus

Bedo & Ors.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Tribhawan Singla, Advocate
For the petitioners.**

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioners/ plaintiff for setting aside order dated 01.04.2023 passed by the Court of Civil Judge(Jr. Divn.), Kaithal vide which an application filed by the petitioners under Section 151 CPC for leading additional evidence has been dismissed.

2. The counsel for the petitioners, *inter alia*, submits that the petitioners filed suit for damages under Fatal Accident Act and the same has been contested by respondents No.1 to 7 who filed written statement and thereafter issues were framed and then the case was fixed for evidence of the prosecution. The petitioners deposited the diet money to summon Dr. Kunal Khanna who conducted the post mortem examination of deceased Raghbir. However, the learned trial Court without taking into consideration the said fact closed the evidence of the petitioners and thereafter the case was fixed for evidence of defendants. In the meantime, the petitioners filed an application for additional evidence to examine Dr. Kunal Khanna in order to establish cause of death of deceased Raghbir. However, the said application

has been declined by the learned trial Court on the ground that the same has been filed at a belated stage when the case is fixed for rebuttal evidence, if any, otherwise for arguments. The counsel for the petitioners further submits that testimony of Dr. Kunal Khanna is required for just decision of the case. So, prayer is made that one opportunity be given to the petitioners to examine the aforesaid witness.

3. I have considered the submissions made by counsel for the petitioners.

4. The Hon'ble Apex Court in **Salem Advocate Bar Association, Tamil Nadu Vs. Union of India, (2005) 6 SCC 344** has held that in spite deletion of provision of Order 18 Rule 17-A CPC, the right to produce evidence at later stage by way of additional evidence is not taken away and the Court has inherent power to exercise jurisdiction for advancement of justice in terms of provisions under Section 151 CPC. So, it is evident that the Court can allow any party to lead evidence even at a later stage, if it is required for the just decision of case, by invoking provisions of Section 151 CPC.

5. In the instant case, the suit has been filed by the petitioners seeking damages from the other party on the ground that they killed Raghbir father of the petitioners by causing injuries to him and the matter was reported to the police and FIR No. 10 dated 19.01.2011 was registered against the assailants in Police Station Titram, District Kaithal and the post mortem examination of the dead body of Raghbir was conducted by the concerned Doctor. The petitioners intend to examine the said doctor in support of their claim and the said medical evidence is necessary for the just decision of the case.

6. For the foregoing reason the revision petition is allowed and the impugned order is set aside and the application filed by the petitioners to lead additional evidence is allowed subject to costs of Rs.3,000/- and petitioners are granted one opportunity to lead the additional evidence as prayed for subject to right to contesting respondents to rebut the said additional evidence. The cost is to be paid by the petitioners to the opposite party on the next date fixed before the trial Court.

7. Keeping in view the nature of order being passed, no notice is required to be issued to the respondents. However, if they feel dis-satisfied with this order, they may move an application to recall the same.

(KARAMJIT SINGH)
JUDGE

21.08.2023

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No