

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR-6619-2023

Date of decision: 20.11.2023

Bank of Baroda and another

....Petitioners

Versus

Amarjit Kaur and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. C.S.Pasricha, Advocate and
Mr. Salinder Pal Singh, Advocate and
Mr. Sushil K.Bhardwaj, Advocate for the petitioners.

AMARJOT BHATTI, J.

1. The petitioners have filed the present civil revision under Article 227 of the Constitution of India for setting aside the order dated 16.10.2023 (Annexure P-1) passed by the learned Motor Accident Claims Tribunal, Amritsar in MACP case No.234 of 2018 vide which the application for additional evidence filed by the petitioners/respondents No.1 and 2 has been dismissed.

2. Learned counsel for the petitioner referred to the claim petition (Annexure P-2) in which the present petitioners have been arrayed as respondents No.1 and 2 and the other respondents are arrayed as respondent No.3-Gurvail Singh, driver of the alleged offending vehicle and respondent No.4-Nirmal Singh was impleaded by the orders of the court. The claim petition is under Section 166 of Motor Vehicles Act for grant of compensation on account of death of Jaswinder Singh alleging that the accident had taken place on 06.08.2018 on account of rash and

negligent driving of bus colour yellow with painted name of Japindra Public School having RC No.PB08-C-4205 driven by respondent No.3 rashly and negligently. The FIR No.0096 dated 06.08.2018 was registered at Police Station Jhabhal. It is pointed out that on the application filed by the Bank under Order 1 Rule 10 CPC, Nirmal Singh was arrayed as respondent No.4. The copy of application is Annexure P-3.

The petitioner-Bank filed application for leading additional evidence that at the time of accident the vehicle was neither in the ownership nor control of the Bank. In fact the said vehicle was sold by the Bank in October, 1999. Gurvail Singh-respondent No.3 is ex parte before the learned Tribunal. The present petitioners tried to procure his service even by bailable warrants but he failed to appear. The application to summon Gurvail Singh is Annexure P-6. The vehicle was sold to Mr. Preet Mohinder Singh. Even the contents of FIR indicates that the accident had taken place with a school bus colour yellow on which the name of the school Japindra Public School was mentioned. Without considering the aforesaid facts, the application for additional evidence has been wrongly declined. The learned counsel for the petitioners prayed that two effective dates may be given for concluding their evidence.

3. I have considered the arguments. The case of the present petitioners is based on documents and the orders which are already placed on record. The claim petition under Section 166 of Motor Vehicles Act has been filed against the present petitioners along with Gurvail Singh-respondent No.3 and Nirmal Singh-respondent No.4. As per the facts, the respondent No.3-Gurvail Singh was driver of the offending vehicle No.PB08-C-4205 who is ex parte before the learned Tribunal and the

petitioners i.e. respondents No.1 and 2 are making efforts to examine him as a witness. The petitioners further want to lead additional evidence that they had disposed of the vehicle long time back in October, 1999. I have also gone through the contents of petition and the facts of the case narrated in para No.23 clearly shows that the accident took place with a bus colour yellow painted with name of Japindra Public School having RC No.PB08-C-4205 driven rashly and negligently allegedly by Gurvail Singh-respondent No.3. The present petitioners/respondents No.1 and 2 want to lead evidence regarding sale of aforesaid vehicle by the Bank authorities as well as Gurvail Singh-respondent No.3 who was allegedly driving the offending vehicle. The learned Motor Accident Claims Tribunal has declined the application for additional evidence by passing impugned order Annexure P-1 by raising the issue that there is no evidence that ownership of the said vehicle in RTA record was transferred in the name of Preet Mohinder Singh and for that reason the application for additional evidence was declined. The facts of the case indicate that the present petitioners/respondents No.1 and 2 were making best possible efforts to procure the service of respondent No.3 the alleged driver of the offending vehicle and the Bank further wants to prove on record the documents regarding the sale of vehicle by the Bank authorities.

Considering the peculiar facts and circumstances of the present case, in my opinion the present petitioners can be given two effective opportunities to conclude their evidence so that the matter in controversy is decided on merits. Therefore, taking a lenient view the impugned order dated 16.10.2023 (Annexure P-1) is accordingly set aside and the learned Motor Accident Claims Tribunal is directed to give two

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effective opportunities to the present petitioners/respondents No.1 and 2 to conclude their evidence at their own responsibility. However they can take the assistance of the Court by taking the process *dasti* or as per previous order before the Motor Accident Claims Tribunal.

Accordingly, the present civil revision stands disposed of with the aforesaid direction.

Pending application(s), if any, shall stands disposed of.

20.11.2023
Sunil Devi

(AMARJOT BHATTI)
JUDGE

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