

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR-6756-2023.

Date of Decision: 09.11.2023.

Sunita Saluja and others

....Petitioners.

Versus

Rakesh and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Ms. Varuna Singh, Advocate for petitioners.

Lalit Batra, J.(Oral)

This civil revision petition under Article 227 of the Constitution of India has been filed by petitioners/claimants impugning the legality of order dated 13.09.2023 (Annexure P-7) rendered by learned Motor Accident Claims Tribunal, Sonapat (for short, 'the Tribunal), vide which claim petition filed by petitioners/claimants was dismissed for want of prosecution qua respondent No.2.

2. Learned counsel for petitioners/claimants *inter alia* contends that petitioners/claimants filed claim petition under Section 166 of the Motor Vehicles Act, seeking compensation on account of death of Sahib Saluja caused in a motor vehicular accident which took place on 24.09.2022. Claim petition was instituted on 17.12.2022 and vide order of even date, learned Tribunal ordered for issuance of notice to the respondents for 20.02.2023 on filing of PF, copy of petition, RC etc. within one month. The petitioners on the same day filed prescribed process fee of Rs.50/- for summoning the respondents. On 20.02.2023, notice issued to respondent No.2 was received

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back unserved for want of complete address and, thus, fresh notice to respondent No.2 was ordered to be issued for 05.04.2023. However, on 05.04.2023, learned Tribunal observed that notice to respondent No.2 could not be issued for want of copy and ordered that notice to respondent No.2 be issued for 05.07.2023 on filing of PPF, copy of petition, correct address, RC etc. and that process be filed within a month subject to last opportunity. On 05.07.2023, learned Tribunal observed that notice to respondent No.2 could not be issued for want of copy and then last opportunity was granted to petitioners/claimants for summoning of respondent No.2 subject to costs of Rs.200/- to be deposited in DLSA, Sonipat and on filing of PPF, copy of petition, correct address, RC etc. Vide impugned order dated 13.09.2023, learned Tribunal dismissed the claim petition qua respondent No.2 for want of prosecution and observed that neither the cost was paid nor the process was filed despite last opportunity granted to the petitioners. Learned counsel for petitioners/claimants further contended that non filing of process and non payment of cost is neither intentional nor wilful but it occurred due to negligence on the part of clerk of the counsel for the petitioners. Dismissal of claim petition qua respondent No.2 for want of prosecution has caused irreparable loss to the petitioners/claimants. The petitioners/claimants have deposited the cost of Rs.200/- as directed vide order dated 05.07.2023. Learned Tribunal has failed to appreciate that process fee already stood deposited by petitioners/claimants on 17.12.2022 and the same is not required to be deposited again for issuance of fresh notice to the unserved respondents.

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Thus, petitioners/claimants seek one more effective opportunity to do the needful to serve respondent No.2.

3. I have heard learned counsel for petitioners and have carefully gone through the file.

4. As is evident from document (Talwana Annexure P-3), process fee was deposited on 17.12.2022. Cost of Rs.200/- has also been deposited with DLSA, Sonipat. Proper course was adopted at the instance of petitioners/claimants for the summoning of respondents and for the said reason alone, respondents No.1, 2-A and 3 have already been summoned and they have put in appearance before learned Tribunal.

5. In view of above, the instant petition is allowed and impugned order dated 13.09.2023 passed by learned Tribunal regarding dismissal of claim petition qua respondent 2 for want of prosecution is set aside. Petitioners/claimants are granted one more effective opportunity to effect service of notice upon respondent No.2.

(LALIT BATRA)
JUDGE

09.11.2023
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No