

126.

2023:PHHC:154702

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

CR-7310-2023

Date of decision: 05.12.2023

MAYA DEVI

.... Petitioner

Versus

SABBIR KHAN AND OTHERS

.... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Kartik Gupta, Advocate, for the petitioner.

GURBIR SINGH, J. (Oral)

1. Prayer in this revision petition filed under Article 227 of the Constitution of India is for setting aside the order dated 06.09.2023 (Annexure P-11) passed by learned Motor Accident Claims Tribunal, Gurugram and the application (Annexure P-7) filed by the petitioner for permission to lead additional evidence may be allowed.

2. The brief facts, as culled out from the petition, are that the petitioner-Maya Devi filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 for grant of compensation on account of death of her son. Respondent No.3-Insurance Company contested that petition since other respondents were proceeded ex-parte. Issues were framed on 16.12.2019 and the case was fixed for the evidence of petitioner. However, despite availing three effective opportunities including last opportunity, the petitioner failed to conclude evidence and vide order dated 30.09.2021, her evidence was closed by order. Against said order, she approached this Court by way of

Civil Revision No.2899 of 2021 and vide order dated 14.02.2023, she was granted one effective opportunity to complete her evidence. Vide order dated 29.03.2023, the evidence of the claimant was closed. But since her deceased son was preparing for CAT 2017 as well, she moved another application dated 13.07.2023 (Annexure P-7) for leading additional evidence i.e. to examine the concerned official from the Indian Institute of Management (IIM), Vastrapur, Ahmedabad to prove the placement package for the year 2017 to 2019. Said application was allowed by the learned MACT, Gurugram vide order dated 03.08.2023. The operative part of said order reads as under:-

“In view of the above-mentioned discussion the present application for additional evidence is hereby allowed but instead of reverting the case back to the stage of PWs, the applicant is allowed to get the witness examine/documents tendered in rebuttal evidence on 24.08.2023.”

The witness came present in the Court, but counsel for the Insurance Company pointed out that the petitioner was granted only one effective opportunity vide order dated 14.02.2023 passed by this Court in Civil Revision No.2899 of 2021 and that opportunity, she had already availed and accordingly, vide order dated 06.09.2023 (Annexure P-11), the order dated 03.08.2023 allowing the petitioner to lead additional evidence has been revoked. The operative part of said order reads as under:-

“In view of aforesaid discussion, it is apparent that petitioner has suppressed material facts from the court which tentamounts to be contempt of the court therefor order dated 03.08.2023 is revoked, being passed on the ground of suppression of facts and

petitioner is directed to pay Rs.10,000/- as costs for wasting the time of the court in the DLSA. Receipt be produced on or before 02.11.2023. Matter is now fixed for 02.11.2023 for rebuttal evidence otherwise for arguments.”

3. It is submitted that by way of application (Annexure P-7), the petitioner intends to examine an official from IIM Ahmedabad in order to ascertain the minimum and maximum package offered to the students in placement during 2017 to 2019 and for the just decision of the case, his examination is necessary. It is further submitted that an application for additional evidence is maintainable at any stage of the proceedings till the time the decree is prepared by the trial Court. It is further submitted that petitioner be given one opportunity to lead additional evidence.

4. I have heard the submissions of learned counsel for the petitioner and have gone through the paper book.

5. Keeping in view the fact that the proceedings before the Tribunal are summary in nature, strict rules of CPC are not applicable before the Tribunal, this is a beneficial legislation, the instant petition is filed by the helpless mother whose only son had expired in the accident, the technicalities should not come in the way for imparting justice, Courts/Tribunals are meant to do complete justice to the parties and no prejudice would be caused to the other side if proposed witness is examined by way of additional evidence as the other party shall get opportunity to cross-examine him, so, in these circumstances, if notice of this petition is given to the other side, then it may prolong the matter and may also cause financial burden on the respondents, the impugned order deserves to be set aside.

6. In view of above, the order dated 06.09.2023 (Annexure P-11) is hereby set aside. Only one opportunity is granted to the petitioner to produce the witness by taking dasti summons and to examine him but subject to payment of costs of Rs.10,000/- to the concerned District Legal Services Authority. No further opportunity shall be granted to him for this purpose, but in case the witness does not appear on receipt of summons, then the Tribunal is free to take coercive action for procuring the presence of said witness.

7. If the respondents are not satisfied with this order, they can move an application for recalling of this order within 30 days.

8. Present petition stands disposed of accordingly.

(GURBIR SINGH)
JUDGE

December 05, 2023

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No