

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

116

2024:PHHC:001064

1. CR-7816-2017 (O&M)
Date of decision: 08.01.2024

RELIANCE GENERAL INSURANCE COMPANY LTD ..Petitioner

Versus

BALJIT KAUR AND ORS ..Respondents

2. CR-3555-2019

RELIANCE GENERAL INSURANCE COMPANY LTD ..Petitioner

Versus

BALJIT KAUR AND ORS ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kanwaljit Singh Sr. Advocate
with Mr. Anirudh Gupta, Advocate
for the petitioner (in CR-7816-2017).

Mr. Keshav Pratap Singh, Advocate
for the petitioner (in CR-3555-2019).

Mr. Ramnish Puri, Advocate
for respondent No.1 to 5.

Mr. Ashish Gupta, Advocate
for respondent No.7.

ANIL KSHETARPAL, J(Oral)

1. This order shall dispose of two connected revision petitions i.e. CR-3555-2019 and CR-7816-2017, filed by the common petitioner in both the revision petitions.

CR-3555-2019

2. The petitioner herein was defendant No.2. An application under Order IX Rule 13 of the Code of Civil Procedure, 1908, was filed by the petitioner to set aside the ex parte proceedings and ex parte decree passed in a suit for recovery of compensation for the death of Head Constable

Sh. Gurjant Singh due to the negligence of defendant No.1, who was a contractor. A pit had been dugged while carrying out the construction work on the road. Sh. Gurjant Singh while riding the motorcycle fell down in the aforesaid pit, resulting in his death. FIR No.315, dated 30.09.2007, under Section 304A of the IPC was also registered. The suit was contested by defendant No.1, the contractor. Defendant No.2 as noticed, filed an application for setting aside the ex parte decree. However, the petitioner failed to lead sufficient evidence to prove that it was prevented by sufficient cause from appearing in the Court. In fact, on behalf of the petitioner only one witness was partly examined as he did not turn up to face cross-examination. In these circumstances, both the Courts dismissed the application filed under IX Rule 13 of the Code of Civil Procedure, 1908.

3. The learned counsel representing the petitioner although made sincere attempt, however, failed to draw the attention of the Court to any substantive error in the view taken by the Courts below.

4. Hence, no ground to interfere is made out.

5. CR-3555-2019, is dismissed accordingly.

CR-7816-2017

6. In CR-7816-2017, the same petitioner claims that the Executing Court had no territorial jurisdiction to attach the bank account of the petitioner-company in terms of Section 39(4) of the Code of Civil Procedure, 1908.

7. From the order passed in CR-3555-2019, it is evident that the petitioner-company, the insurer is liable to pay the amount.

CR-7816-2017 (O&M) & CR-3555-2019

8. Keeping in view the aforesaid facts, HDFC Bank, Branch Maneckji Wadi Building, Nanik Motwane Marg, Fort Mumbai-400023, is requested to remit the decretal amount so that Executing Court is enable to distribute the amount to the widow and minor children of the deceased.
9. This order has been passed in exercise of powers under Article 227 of the Constitution of India in order to avoid further delay.
10. With these observations, CR-7816-2017, is disposed of.
11. All the pending miscellaneous applications, if any, are also disposed of.

January 08th, 2024
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(ANIL KSHETARPAL)
JUDGE

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