

125.

2024:PHHC:013470

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-543-2024

Date of decision: 31.01.2024

Harpreet Singh

... Petitioner

Versus

Yashpal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Vansh Chawla, Advocate, for the petitioner.

GURBIR SINGH, J.

1.
- Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 18.12.2023 (Annexure P-1) passed by learned Motor Accident Claims Tribunal, Ambala, whereby rebuttal evidence of the petitioner has been closed.
2.
- Briefly stated, the petitioner-claimant filed a claim petition, through his wife, for grant of compensation on account of injuries suffered in a motor vehicular accident that took place on 09.05.2019 between the motorcycle of claimant while coming back from Village Sadopur, Ambala City, with the motorcycle of respondent No.1. In the said accident, he suffered fatal injuries. Firstly, the claimant was taken to Healing Touch Hospital, Ambala, but due to serious head injury, he was referred to Fortis Hospital, Mohali. Upon notice, the other side appeared and both parties led their respective evidence. Thereafter, the case was fixed for rebuttal evidence. But after availing various opportunities, the

claimant did not produce rebuttal evidence and vide order dated 11.10.2023, the case was adjourned to 31.10.2023 and it was made clear that on that day, arguments on merits shall be heard without entertaining any request for adjournment. However, it was pleaded that while preparing for final arguments, the petitioner realized that the doctors, who treated him, have not been examined by him and also the challan under Section 173 Cr.P.C. has not been appended with the claim petition. So, he filed an application dated 30.10.2023, just before the adjourned date, for leading additional evidence. On the adjourned date i.e. 31.10.2023, said application was allowed and the petitioner-claimant was afforded one opportunity to bring the entire evidence on record but subject to payment of costs of Rs.5,000/- to be deposited with the District Legal Services Authority and the case was adjourned to 18.12.2023. It was also made clear that no further adjournment to lead such evidence will be given and the case would automatically move to the next proceedings i.e. for final arguments. But on said date also, neither any evidence was produced nor cost, so imposed, was deposited.

3. Aggrieved against the aforesaid order, present revision petition has been filed.

4. Learned counsel for the petitioner submits that inadvertently, the Clerk of the counsel before the Tribunal forgot to summon the witnesses, who treated the petitioner, for the date fixed. However, by way of present revision petition, he seeks one opportunity

to summon Dr. V.K. Khosla, Dr. Rajan Chugh (referral Doctor) of Fortis Hospital, Mohali, and Dr. Anita Sharma from Healing Touch Hospital, Ambala City and also wants to produce copy of challan under Section 173 Cr.P.C., which evidence is necessary for the just decision of the case. However, the petitioner states that he would not seek any other opportunity for that purpose. The case before the Tribunal is stated to be fixed for 09.02.2024.

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

6. 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 claimant, who suffered series injuries 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 witnesses are examined by way of additional evidence as the other party shall get opportunity to cross-examine them and production of copy of challan is also necessary for just decision of the case, so, in these circumstances, if notice of this petition is given to the respondents, then it may prolong the matter and may also cause financial burden on them, the impugned order deserves to be set aside.

7. In view of above, the order dated 18.12.2023 (Annexure P-1) is hereby set aside. Only one opportunity is granted to the petitioner to produce copy of challan under Section 173 Cr.P.C. and the above mentioned witnesses by taking dasti summons and to examine them on the date to be fixed before the Tribunal, but subject to payment of costs of Rs.5,000/-, already imposed vide order dated 31.10.2023 passed by learned Tribunal, to be deposited with the District Legal Services Authority. No further opportunity shall be granted to him for this purpose, but in case said witnesses do not appear on receipt of summons, then the Tribunal would be at liberty to proceed further with the case in accordance with law and is free to take coercive action. In case, dasti summons are not obtained and no proper effort is made to serve the witness and to produce copy of challan filed under Section 173 Cr.P.C., then petitioner is not entitled for any other opportunity to lead evidence.

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

9. Present revision petition is allowed accordingly.

(GURBIR SINGH)
JUDGE

January 31, 2024
sanjeev

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