

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

123

CR-557-2024 (O&M)

Date of decision:31.01.2024

Go Digit General Insurance Ltd.

... Petitioner

Vs.

Smt. Rita & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Sanjeev Kodan, Advocate for the petitioner.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed by the petitioner/ Insurance Company against the order dated 05.01.2024 (Annexure P-5) passed by the Additional District and Sessions Judge, Rupnagar, whereby evidence of the petitioner has been closed by order.

2. Brief facts which are material for adjudication of the present revision petition are that widow and children of deceased Ram Avtar filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 before the Motor Accident Claims Tribunal, Rupnagar (hereinafter to be referred to as 'the Tribunal') for compensation qua death of Ram Avtar because of rash and negligent driving by respondent No.4 – Ranjit Singh. After notice having been issued, written statement was filed by the petitioner/ Insurance Company. Thereafter from the pleadings of the parties, issues were framed and then other proceedings were carried out by the Tribunal. On 11.08.2023, the case were fixed for respondents' evidence. On 18.08.2023, petitioner filed an application before the Tribunal for

summoning clerk concerned from the Bharti Airtel Limited and official concerned of BBMB Hospital, Nangal. The said application was allowed by the Tribunal and an amount of Rs.760/- was deposited as diet money to summon the said witnesses. On 08.09.2023, statement of Dr. Mandeep Kaur from BBMB Hospital, Nangal was recorded and it was also recorded that statements of the other witnesses from Bharti Airtel Limited were yet to be recorded and the proceedings were deferred to 22.09.2023. When on 22.09.2023, no witness from Bharti Airtel Limited was present then proceedings were again deferred to 13.10.2023 and it was recorded that it was the last opportunity for concluding the evidence. Then the petitioner/Insurance Company filed an application under Order 6 Rule 17 CPC for amendment of written statement which was dismissed by the Tribunal vide order dated 03.11.2023. On 17.11.2023, counsel for the petitioner suffered a statement that he does not want to lead any other evidence except examining the concerned officials from the Bharti Airtel Limited whose diet money had already been deposited. On 01.12.2023 when a witness from Bharti Airtel Limited appeared then counsel for the petitioner pointed out before the Tribunal that the summons had been wrongly sent and then the said witness was discharged and the matter was deferred to 08.12.2023 for the same purpose. On 08.12.2023, petitioner was granted last opportunity for concluding his evidence and then matter was deferred to 22.12.2023. Thereafter on 05.01.2024, evidence of the petitioner was closed by order of Court. Being aggrieved of the said order, the present revision petition has been filed by the petitioner/Insurance Company before this Court.

3. Learned counsel for the petitioner has contended that the witness of Bharti Airtel Limited was duly served two times, first for 01.12.2023 and then on 22.12.2023 through *dasti* process. After allowing the application for summoning witness from Bharti Airtel Limited, the required diet money was deposited before the Tribunal on 18.08.2023 and despite the fact that the said witness was duly served, the Tribunal closed evidence of the petitioner by order, arbitrarily. He has further contended that if the witness who is duly served is not appearing before the competent Court of law then he can be summoned through bailable/non-bailable warrants but without adopting any coercive measures, the impugned order had been passed by the Tribunal, which is not sustainable in the eyes of law.

4. I have heard learned counsel for the petitioner at length and have perused the pleadings on record.

5. Perusal of the impugned order reveals that the petitioner despite granting various adjournments for concluding its evidence, failed to do the same and then its evidence was closed by the Tribunal vide the impugned order dated 05.01.2024 (Annexure P-5).

6. Though there is no infirmity in the impugned order, yet it will be appropriate, if in the interest of justice, one effective opportunity is given to the petitioner to conclude its evidence, as the concerned official from the Bharti Airtel Limited, which the petitioner intends to examine in its evidence, is a material witness, who is to produce the call detail records etc. The diet money for this purpose had already been deposited. The other party can be well compensated with costs. Therefore, the impugned order

is set aside. The Tribunal will grant one effective opportunity to the petitioner to conclude its entire evidence subject to payment of costs of Rs.5,000/- to be paid to the respondents.

- 7. Revision petition is allowed in the aforesaid terms.
- 8. Pending application(s), if any, shall also stand disposed of.

(SUKHVINDER KAUR)
JUDGE

31.01.2024
harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |