

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

120

CR-1820-2024 (O&M)
Decided on: 16.04.2024

PUSHPA DEVI GOYAL

...PETITIONER

Versus

PARVEZ AHMED KHAN AND ORS

...RESPONDENTS

CORAM: HON'BLE MRS JUSTICE RITU TAGORE

Present: Mr. Dixit Garg, Advocate
for the petitioner.

RITU TAGORE, J.

1. The challenge in this revision petition pertains to the orders dated 07.03.2024 (Annexure P-6) and 14.03.2024 (Annexure P-9) passed by learned Additional District Judge, Ludhiana, wherein the Court ordered the closure of the petitioner's evidence, and additionally, rejected the application (Annexure P-7) to allow the claimant to examine her witness, in a claim petition under Section 166 of the Motor Vehicular Act (Annexure P-1) bearing MACT-125/2015 titled as Pushpa Devi Goyal Vs. Parvez Ahmed Khan and Others.
2. Learned counsel for the petitioner submits that petitioner filed the claim petition (*ibid*) for the death of her husband. The petitioner has examined herself as CW-4, and other witnesses. She wanted to examine an eye witness of the accident, Shri Sandeep Sharma, and moved an application (Annexure P-7) in this regard. However, learned Tribunal dismissed the application, in arbitrary manner, despite the witness being present in the Court.

3. Learned counsel argues that the statement of Shri Sandeep Sharma is very material to prove the factum of the accident and rashness and negligence on the part of the driver (respondent No.1 before the learned MACT) in causing the accident. The non-examination of the aforesaid witness would seriously prejudice the petitioner/claimant. The petitioner's counsel requests one opportunity for the petitioner/claimant to complete her evidence. It is stated that next date of hearing before the learned MACT is 25.04.2024.

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

5. Considering the limited prayer made in this revision, notices to respondents are dispensed with at this stage.

6. After reviewing the several *zimini* orders including the impugned orders, it is revealed that claim petition (Annexure P-1), filed by the petitioner for the death of her husband, is pending for adjudication before the learned Tribunal, Ludhiana. According to the petitioner, the statement of Shri Sandeep Sharma is very crucial for proving the occurrence of accident as well as rash and negligent behavior of the driver-respondent in driving the offending vehicle and causing the accident. Further the impugned order dated 14.03.2024 (Annexure P-9) reveals that the petitioner had also moved an application for examination of Shri Sandeep Sharma immediately after closing her oral evidence. However, learned Tribunal declined to accept her prayer on the premise that she was made aware that no further opportunity would be given to her to present additional evidence on the last scheduled date of hearing of the case.

7. It is well established that the Court should adopt a liberal approach and rights of the parties should be adjudicated on the merits of the

controversy rather thwarting the same on rigid technicalities. Furthermore, the counsel on behalf of the petitioner undertakes to conclude the evidence in one effective opportunity.

8. In these circumstances, to do complete justice between the parties, I believe that one effective opportunity should be granted to the petitioner to conclude her evidence. Accordingly, impugned orders dated 07.03.2024 and 14.03.2024 (Annexures P-6 and P-9, respectively) are set aside.

9. Petitioner is directed to appear before learned Tribunal on the due date of hearing as fixed by the Court and learned Tribunal shall provide the petitioner one effective opportunity to conclude the evidence, taking into account the convenience of the opposing party and the Court’s own workload.

10. It is made clear that in case of default, this order shall stand automatically vacated.

11. Respondents if not satisfied with this order, they may move an application for recalling of this order within 30 days.

12. Accordingly, revision petition is allowed in above terms.

13. Pending applications, if any, also stands disposed of accordingly.

(RITU TAGORE)
JUDGE

16.04.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No