



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

Sr. No.141

CR-3631-2023 (O&M)

Date of Decision: 30.07.2024

GAGANDEEP KAUR

....Petitioner

Versus

INDERJIT SINGH AND OTHERS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Angraze Singh Dhindsa, Advocate for the petitioner.
Mr. Mandeep Singh Dhaliwal, Advocate for respondent No.1.
Respondent No.2 proceeded against *ex parte*
vide order dated 06.12.2023.
Mr. P.H.S. Pannu, Advocate for respondent No.3.

ARCHANA PURI, J. (Oral)

CM-12678-CII-2024

The present application has been filed for placing on record copy of the application to examine witnesses, as well as copy of disability certificate, as Annexures P-3 and P-4, respectively.

In view of the averments made in the application, same is allowed and the requisite documents are taken on record.

Main case

Challenge in the present revision petition is to the order dated 22.03.2023 passed by learned Motor Accident Claims Tribunal, whereby an application filed at the instance of the petitioner (who is claimant before learned Tribunal), for examination of nine more witnesses, was dismissed.

In pursuance of the notice issued respondents No.1 and 3 made appearance through counsel. However, respondent No.2 was proceeded against *ex parte* vide order dated 06.12.2023.

Learned counsel for the parties heard.



The material facts, as culled out from the paperbook are that, initially, Gagandeep Kaur had filed petition under Section 166 of the Motor Vehicles Act, for grant of compensation, on account of injuries sustained by her, in a motor vehicular accident. The said petition was filed on 22.04.2019. After the completion of service, written statement was filed and issues were framed on 08.08.2019. Thereafter, thirteen witnesses were examined and counsel for the petitioner/claimant had closed the evidence on 22.01.2020. The evidence was led at the instance of the respondents and was closed thereafter. After closure of the evidence by the respondents, an application was filed at the behest of the petitioner/claimant, copy whereof has been taken on record as Annexure P-3 today itself, vide CM-12678-CII-2024, for examination of nine more witnesses, by way of additional evidence. However, the said application was dismissed by learned Tribunal, vide the impugned order.

It is submitted by learned counsel for the petitioner that earlier, Dr. Praneet Kaur, Medical Specialist, Civil Hospital, Barnala, was examined as CW-8 and she had proved the disability certificate as Ex.C-2, wherein the disability was assessed as 61%, but, it was temporary in nature. Thereupon, after closure of the evidence, the permanent disability was assessed and the same is required to be brought on record. In fact, learned counsel has made reference to Unique Disability ID, copy whereof has been taken on record today itself as Annexure P-4 and submits that the permanent disability has been assessed as 60% and the said UDID certificate was issued on 08.12.2022 i.e. after the closure of the evidence, even by the respondents. In the given circumstances, it is submitted that since the disability, earlier assessed, was temporary, therefore, the witnesses were required to be



examined, *vis-a-vis* the assessment of the permanent disability.

On the other hand, learned counsel for respondents No.1 and 3, have made a submission that several opportunities have already been availed by the petitioner/claimant, to lead evidence and therefore, learned Tribunal, has appropriately dismissed the application.

It is pertinent to mention here that the Motor Vehicles Act, 1988, is a benevolent piece of legislation and simply, on the score of various opportunities, having availed and the counsel for the claimant, having closed the evidence, the claim for assessment of compensation cannot be thrown away on the ground that no opportunity can be given, more particularly, when it is coming forth in the testimony of CW-8, Dr. Praneet Kaur, about the extent of disability to be 61%, but it is temporary in nature. Re-assessment is claimed to have been made thereafter and Unique Disability ID Certificate was issued, copy whereof is Annexure P-4 on 08.12.2022 i.e. after the closure of the evidence at the instance of the petitioner/claimant.

In the given circumstances, to assist learned Tribunal, to reach the rightful assessment of compensation, to be given to the claimant, the certificate relating to the re-assessment of disability, ought to be brought on record.

In view of the aforesaid conclusion, it is further essential to make reference to Annexure P-3, which is the application was by the petitioner, for leading additional evidence. Perusal of the same reveals that there is mention of as many as nine witnesses, to be examined.

On query, by the Court, learned counsel for the petitioner submits that he confines his prayer for examination of only one witness i.e. concerned Clerk of Civil Hospital, Barnala, with regard to the disability



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certificate bearing UDID No.PB2010619970051573. So far as the proposed witnesses at serial No.1 is concerned, learned counsel submits that the educational certificates have already been proved in evidence. Witnesses cited at serial Nos.2 to 5 are stated to be the attendants and the same have not been pressed to be examined. Likewise, even the subsequent witness, relating to serial No.7, has also not been pressed, as it relates to the record of Inderjit Singh, who has no concern with the assessment of compensation to be made, qua Gagandeep Kaur. Likewise, the last witness, the concerned Clerk of the Insurance Company is also not intended to be examined.

In the given circumstances, out of the list of witnesses (Annexure P-3), only one witness is required to be examined. As such, the instant revision petition is hereby partly accepted and the impugned order is set aside.

On query, it is submitted that the next date of hearing before learned Tribunal is 20.08.2024. The parties are directed to make appearance before learned Tribunal on the date fixed. Subject to appearance of the parties, learned Tribunal shall conduct further proceedings, with regard to summoning of the witness i.e. concerned Clerk of Civil Hospital, Barnala along with the record of disability of Gagandeep Kaur and record his statement further and thereupon, an opportunity be given, even to the respondents to rebut the same.

In view of the aforesaid terms, the instant revision petition stands disposed of.

30.07.2024

Himanshu

**(ARCHANA PURI)
JUDGE**

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