

124.

2024:PHHC:002257

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7328-2023

Date of decision: 09.01.2024

Zile Singh

... Petitioner

Versus

Joginder and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Ms. Mamta Panwar, Advocate, for the petitioner.

GURBIR SINGH, J.(Oral)

1.
- Challenge in this revision petition filed under Article 226/227 of the Constitution of India is to the order dated 02.08.2023 (Annexure P-11) passed by learned Motor Accident Claims Tribunal, Sonipat, whereby the claim petition of the petitioner qua respondent No.1 has been dismissed for want of prosecution.
2.
- Briefly stated, the petitioner-claimant filed a claim petition under Section 166 read with Section 140 of the Motor Vehicles Act, for grant of compensation on account of damage to his vehicle i.e. Eicher Canter bearing No.HR-45B-0871 in an accident which took place on 18.03.2017. In the said petition, vide order dated 12.11.2021, notice was issued to the respondents on filing of PPF, RC, copy of petition etc. Respondent No.2 was represented but respondent No.1 could not be served for want of filing of copy of petition by the petitioner despite availing number of opportunities including last opportunity and cost was

also imposed. Thus, vide impugned order dated 02.08.2023, the petition qua respondent No.1 was dismissed for want of prosecution.

3. Learned counsel for the petitioner submits for summoning the respondents, petitioner had filed process fee of Rs.50/-, a copy thereof is placed on file at Annexure P-3. Since further process fee was not required to be filed again and such a petition was required to be dealt with in a summary manner and strict rule of CPC are not applicable before the Tribunal and in case, the order impugned is not set aside, it would cause irreparable loss to the petitioner. It is submitted that non-filing of process fee and non-payment of cost was neither intentional nor willful but it was due to negligence of the Clerk of the counsel for the petitioner-claimant before the MACT, Sonipat. It is submitted that cost of Rs.200/- has already been deposited with the District Legal Services Authority, Sonipat, copy of receipt dated 18.04.2023 is at Annexure P-9. Petitioner is seeking one more effective opportunity to serve respondent No.1 and states that he would not seek any other opportunity for that purpose.

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

5. Though there is some inaction on the part of the petitioner as despite availing numerous opportunities including last opportunity, he has not filed the process, but keeping in view the fact that procedure is handmaid to the administration of justice and it is meant for

advancement of justice, petitioner should not be non-suited merely on procedural technicalities and no prejudice would be caused to the respondents if one opportunity is given to the petitioner, so the impugned order deserves to be set aside.

6. Notice of this petition is not being issued to the respondents, as it may linger on the case and may cause financial burden on them.

7. In view of above, the order dated 02.08.2023 (Annexure P-11) is hereby set aside. The learned Tribunal shall issue notice to respondent No.1 and then proceed further in accordance with law.

8. The present petition is disposed of accordingly.

9. If the respondents are not satisfied with this order, they may move an application within 30 days to recall the same.

(GURBIR SINGH)
JUDGE

January 9, 2024
sanjeev

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No