

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

C.R.No.1410 of 2009

Date of Order: 5.5.2009

Bhagwan Dass

.....Petitioners

Versus

Miss Jyoti and others

Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Parminder Singh, Advocate for the petitioner.

Mr. Subhash Goyal, Advocate for respondent No.4.

JASWANT SINGH, J

By filing the present revision petition under Article 227 of the Constitution of India, petitioner-claimant has laid challenge to order dated 22.1.2009 (Annexure P.4) passed by the learned Motor Accident Claims Tribunal, Karnal whereby his evidence has been closed by order; and further challenge is to order dated 24.1.2009 (Annexure P.6) whereby the prayer for directing the Director, PGI, Chandigarh to issue a Disability Certificate after examining the petitioner has been declined.

It is stated that the petitioner while riding as pillion rider on a motorcycle on 20.3.2005 met with an accident with motor car and due to which he received multiple and grievous injuries i.e fracture of right arm, fracute of right leg, fracture of jaw, fracture of skull, fracture of spine and pelvic bone. Initially, he was treated at General Hospital, Karnal and then referred to PGI, Chandigarh for specialized treatment.

Accordingly, petitioner-claimant filed a claim petition under

Section 163-A of the Motor Vehicles Act, 1988 before the learned MACT, Karnal.

During the pendency of the claim petition, petitioner moved an application dated 11.8.2008 (Annexure P.8) for issuance of direction to the Director, PGI, Chandigarh to issue him Disability Certificate as due to the injuries to the brain, petitioner has become impotent and suffers from penile dysfunction.

During the pendency of the decision on the application, learned MACT vide its impugned order dated 22.1.2009 closed the evidence of the petitioner-claimant by order of the Court as two last opportunities had been granted and in all 13 opportunities were availed. Subsequently vide the impugned order dated 24.1.2009, even the aforesaid application dated 11.8.2008 (Annexure P.8) has been dismissed by the learned Tribunal.

I have heard learned counsel for the parties.

Undoubtedly, the petitioner-claimant was granted 13 opportunities including two last opportunities before passing of the impugned order whereby his evidence was closed by order. In the evidence, petitioner had only examined himself as PW1 and one Dr. Sunil as PW2. Few documents were also tendered in the evidence.

It is quite settled that rules of procedure are handmaid of justice to advance the same and not to subvert it. Furthermore, while adjudicating claim petitions under the provisions of the Motor Vehicles Act, 1988, a beneficial piece of legislation, the Tribunal/Courts are not required to adopt a hypertechnical approach.

Further, neither it can be said that the claimant is causing unnecessary delay in adducing his evidence nor can it be said that he gains

anything by adopting delaying tactics. It is a known fact that for claimants belonging to poor section of the society, it becomes a harrowing task in collecting and producing the evidence.

Thus viewed, in my considered opinion, this Court deems it just and expedient in the interest of justice to grant two effective opportunities to the petitioner-claimant for leading his entire evidence. Since it is also not disputed that for erectile dysfunction, the petitioner-claimant was taking treatment from PGI, Chandigarh and was accordingly referred by the medical board-cum-General Hospital, Kaithal to PGI, Chandigarh for expert opinion and grant of disability certificate, the prayer for directing the learned Tribunal for passing the appropriate orders is also accepted.

Accordingly, orders dated 22.1.2009 (Annexure P.4) and 24.1.2009 (Annexure P.6) passed by the learned Motor Accident Claims Tribunal, Karnal are set aside and the learned Tribunal is directed to pass appropriate orders for directing the Director, PGI, Chandigarh to examine him regarding erectile dysfunction in relation to the injuries suffered in the accident and grant disability certificate; and after the receipt of the report from the PGI, Chandigarh grant two effective opportunities to the petitioner-claimant to lead his entire evidence on the dates to be fixed by it.

Petition stands allowed in the above terms.

May 05, 2009
manoj

(JASWANT SINGH)
JUDGE