

Court of Additional District Judge VIII , Bhojpur

Motor Vehicle no. 33/1997

03-09-2019

Attendance filed on behalf of the claimant and the opposite party . The case is fixed for order on amendment petition dated 10-05-2019 filed by the claimant under Order – 6 Rule – 17 and Section – 151 of CPC . The rejoinder to the said petition has been filed by the opposite party no. 1 on 20-07-2019 .

The petition dated 10-05-2019 filed by the claimant under Order – 6 rule –17 and Section – 151 CPC states that due to bonafide mistake in claim petition name of the owner of the vehicle , driver of the vehicle and policy number have left to be mentioned and as such the petition for amendment has been filed by the claimant . The petition further states that the nature of the claim and scope of the case will also not change and on the said assertion prays for amendment of the claim application . The opposite party no. 1 has filed rejoinder to the said petition on 20-07-2019 stating that after lapse of long years the petition has been filed to linger the case and earlier the case has been dismissed in absence of the interest of the claimant and as the trial has already commenced the amendment petition could not be allowed and if the petition is allowed the same will change the nature of the case and as such the petition for amendment filed by the claimant is not maintainable .

The learned counsel of the claimant submits that the case was dismissed for default and has been restored vide order dated 09-02-2018 . The learned counsel submits that the cause of the accident was collision between Jeep and Truck in which mother of the claimant died and only owner , driver and Insurance company with respect to Jeep was made party and thereafter vide order dated 19-02-2003 the owner , driver and Insurance Company of the truck was added as party in cause title of the claim application but details of the said owner , truck driver and Insurance company has not been mentioned in the details of the claim application and as such it is necessary to bring the said details on record in the different paras of the claim application . The amendment sought for in para – 1 and 16 and addition of para – 15A and 15B are in respect of the details of the owner , driver and Insurance company of the truck and the amendment sought for will not change the nature of the case . The learned counsel of the opposite party no. 1 in reply to the same submits that after a lapse of 21 years of filing of the claim application amendment is sought for and hearing of the case has already been initiated and as such the petition is not maintainable and is fit to be rejected .

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The record transpires that there was collision of the Jeep and Truck in the accident with respect of which the claim stands and the particulars of the Jeep is on record while the details of the Truck is not on record inspite of addition of the owner , driver and Insurance Company of the truck as party to the claim application . The case has been dismissed for default and has been restored and notice to some of the parties have been sent . As for proper adjudication of the claim application it is necessary to bring the particulars of the truck owner , driver and Insurance Company on record . The amendment sought for in para – 15 and 16 relates to Truck details and Insurance Company of the truck and jeep while the amendment sought for by adding para no. 15A and 15 B relates to the driver of the Jeep and Truck which is necessary for proper hearing of the claim application as the truck owner , driver and Insurance Company has already been added as party in the claim application hence in the interest of justice and for proper adjudication of the claim case , the amendment petition dated 10-05-2019 filed by the claimant is allowed subject to cost of Rs. 500.00 and the claimant is directed to amend the claim application within the statutory time limit after payment of the cost and the defendant to file written statement cum objection if any in respect of the amendment allowed . Put up on for appearance .

ADJ VIII