

Smt.Balwinder Kaur & Ors. Versus Honey Chauhan & Ors.

Present: Ms.Jyoti, proxy counsel for Shri Sunidh Kashyap, Advocate, for the claimants.
Respondent No.1 (driver) already ex-parte vide order dated 06.01.2018.
Shri Dinesh Chopra, Advocate, for respondent No.2 (owner).
Shri Shital Bindal, Advocate, for respondent No.3 (Insurer).

Ms.Jyoti, who is appearing as a proxy counsel on behalf of Shri Sunidh Kashyap, counsel for the claimants, has appended her no objection on the application moved by respondent No.2 (owner) for producing the additional evidence by way of oral examination of respondent No.2. Heard. Learned counsel for applicant-respondent No.2 stated that though respondent No.2 has already closed his evidence, but, he wants to examine himself as his own witness, which is necessary to be examined in the given circumstances, however, due to inadvertence, he could not get himself examined. Proxy counsel for the claimants has appended no objection to the application. However, learned counsel for respondent No.3/insurer opposed the application stating that the same is not maintainable at this stage as by way of examining himself, applicant-respondent No.2 wants to fill up the lacuna. However, learned counsel for respondent No.3 also stated that in case, the Tribunal allows this application, then the applicant-respondent No.2 should be restricted to examine himself in oral evidence only and he should not be permitted to tender any documentary evidence on record.

Heard. Claimants have filed the present claim petition on account of death of Balbir Singh in a motor vehicular accident on 12.05.2017 due to rash and negligent driving of respondent No.1. All the

parties have already led the evidence, when applicant-respondent No.2 moved the instant application. As such, keeping in view the controversy raised before the Tribunal, examination of respondent No.2/owner is material for just and complete disposal of the case. The contention of learned counsel for respondent No.3 that the applicant-respondent No.2 should be restricted to examine himself is concerned, to this extent, it is observed that by way of application for additional eviction, applicant-respondent No.2 wants to examine himself as his own witness in his oral examination. However, for complete adjudication of the case, when respondent No.2/owner wants to tender on record any evidence, then to the considered opinion of this Tribunal, he should not be restricted from doing so as this Tribunal would have access to all evidence in order to do the complete justice in disposal of present claim petition. Further, by doing so, Insurance Company would not be prejudiced in any manner as the same shall be given an opportunity to lead its evidence in rebuttal to the evidence led by respondent No.2 in his additional evidence. Accordingly, in view of above discussed facts and circumstances, the application for leading additional evidence stands allowed.

Now to come upon 11.09.2018 for producing additional evidence on behalf of respondent No.2 (owner) to be led at own responsibility. Dasti summons be given to the party concerned, if so desired.

August 28, 2018.

Jaiveer

(Ritu Tagore),
MACT, Panchkula.
UID Number HR-0029

Next Date: 11.09.2018.

Purpose: _____