

PUNJAB AND HARYANA HIGH COURT

Before: Mrs. Justice Manjari Nehru Kaul.

NEW INDIA ASSURANCE CO. LTD. - Petitioner,

Versus

YASH PAL SHARMA and others - Respondents.

CR No.3859 of 2022 (O&M)

(i) Civil Procedure Code, 1908 (V of 1908) Order 1 Rule 10 - Plea that application under Order I Rule 10 [CPC](#) could not have been entertained at a stage when arguments had already been advanced is devoid of merit - Court can entertain an application for impleadment at any stage of the proceedings.

(ii) Civil Procedure Code, 1908 (V of 1908) Order 1 Rule 10 - Impleadment - Case at argument stage - Because the proceedings before the Tribunal would commence de-novo, it cannot be a ground to reject an application under Order I Rule 10 CPC, as the Court of law must lean towards doing full and complete justice, even if it is at the expense of some delay - Justice cannot be held hostage to give precedence to speedy trial as in that case it would be a mere illusion rather than actual justice. **[Para 6]**

Mr. Paul S. Saini, for the petitioner.

Manjari Nehru Kaul, J. - (14th September, 2022) - Petitioner Insurance Company is impugning order dated 17.05.2022 (Annexure P7) passed by learned Motor Accident Claims Tribunal, Chandigarh vide which respondent No.4 Tarsem Singh was impleaded and arrayed as respondent to the claim petition.

2. Learned counsel has vehemently argued that the impugned order is a result of arbitrary exercise of judicial discretion and being patently illegal, cannot be sustained. He submits that the learned Tribunal failed to appreciate that the entire case of the respondent claimants was that the vehicle in which the deceased was travelling at the time of accident in question, struck against the tractor trolley from behind which was parked on the highway. He argued that the application under Order I Rule 10 CPC filed by respondent claimants to implead Tarsem Singh was wrongly entertained when the arguments had already been advanced by the parties and the case had been fixed for pronouncement of the judgment. He thus, submits that it was evident from the conduct of the respondents that the application under Order I Rule 10 CPC had been moved with an oblique motive to fill-in the lacuna in their case and still further it would result in a de-novo trial. Learned counsel submits that all this had to be appreciated in the background that Tarsem Singh was neither a necessary nor a proper party.

3. I have heard the learned counsel and perused the relevant material on record.
4. The submissions made by the learned counsel that the application under Order I Rule 10 CPC could not have been entertained at a stage when arguments had already been advanced is devoid of merit. The language used in Order I Rule 10 CPC is unambiguous and clearly provides that the Court can entertain an application for impleadment at any stage of the proceedings.
5. Further, a perusal of the claim petition (Annexure P1) as well as affidavit of PW-4 Chandni Sharma annexed as Annexure P4 reveal that negligence of the tractor trolley bearing registration No.PB03-AA-7922 had been mentioned in the pleadings of claimant since the very inception and were subsequently reiterated as well in the examination in chief. Therefore, this Court does not concur with the submissions made by the learned counsel that the application in question had been moved just to fill-in the lacuna.
6. This Court is also of the opinion that because the proceedings before the Tribunal would commence de-novo, it cannot be a ground to reject an application under Order I Rule 10 CPC, as the Court of law must lean towards doing full and complete justice, even if it is at the expense of some delay. Justice cannot be held hostage to give precedence to speedy trial as in that case it would be a mere illusion rather than actual justice.
7. Still further, this Court fails to comprehend as to how the impugned order would adversely affect the case of the petitioner. The Tribunal certainly cannot be faulted with in any manner for allowing the application under Order I Rule 10 CPC. As a sequel to the above, the instant petition being devoid of any merit stands dismissed.

*R.M.S.
dismissed.*

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Petition