

2025:PHHC:088548



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

122

CR-4414-2025 (O&M)

Date of decision: 17.07.2025

Rajesh and another

...Petitioners

Versus

Arun Yadav and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Kushager Goyal, Advocate and
Mr. Preeti Bansal, Advocate for the petitioners.

VIKAS SURI, J.

1. Prayer in this petition under Article 227 of the Constitution of India is for setting aside the impugned order dated 24.03.2025 (Annexure P-1) passed by learned Motor Accident Claims Tribunal, Hisar, whereby the defence of the petitioners has been struck off for not having filed the written statement within the time allowed.

2. Briefly stated, in a claim petition filed by respondent No.1/claimant under Section 166 of the Motor Vehicles Act, 1988 (for short 'MV Act') for grant of compensation on account of the injuries sustained by him in a motor vehicle accident. The petitioners alleged to be the driver and owner of the offending vehicle, have been arrayed as respondent Nos.1 and 2 in the said claim petition. Upon notice of the petition, the petitioners put in appearance in person before the Tribunal on 12.09.2024 and also on the next hearing on 18.11.2024. The matter was adjourned to 05.12.2024 for filing the written statement on behalf of all the respondents including the insurance company. On the subsequent



hearing, an application was moved by the insurance company under Section 170 of the MV Act for permission to defend the claim petition and another application directing the petitioners for discovery on oath and to produce documents filed. While deferring the proceedings to 06.01.2025 for filing written statement on behalf of the petitioners, it was directed to be the last opportunity. However, the said date was declared a holiday and the proceedings were further deferred to 24.03.2025 when the defence of the respondents was ordered to be struck off. The proceedings now stand adjourned to 12.08.2025, for framing of issues.

3. Assailing the impugned order, the present petition has been filed by the petitioners.

4. Learned counsel for the petitioners submits that the petitioners have been diligently pursuing the case and it is only on account of a medical exigency arisen in the family of the counsel that the written statement could not be filed within the stipulated period. It is further submitted that the timeline stipulated in the Code of Civil Procedure, 1908, for filing written statement is directory and not mandatory. Thus, a prayer is made that one opportunity be granted to the petitioners to file the written statement which has been appended as Annexure P-6 with the present petition.

5. Heard learned counsel for the petitioners and with his able assistance perused the record.

6. Perusal of the interlocutory orders passed by the learned



Tribunal would show that the hearing for which last opportunity for filing of the written statement had been granted was declared a holiday and the impugned order was passed on the next hearing. The case of the petitioners is that the written statement could not be timely filed as there was medical exigency in the family of the counsel. The relevant averment made in para 7 in that regard reads as thus:-

“7. That it is most respectfully submitted that the non-filing of the written statement before the learned Tribunal was neither intentional nor deliberate. It is pertinent to mention here that the maternal grandfather of the counsel representing the present petitioners (respondent no. 1 and 2 before the learned Tribunal) was critically ill and was undergoing treatment during the relevant period. Unfortunately, he was on his deathbed, which completely occupied the counsel's attention and time, leaving him unable to prepare and file the written statement before the Ld. Tribunal. The aforesaid circumstance was the sole reason for the inadvertent lapse on the part of the counsel. The death certificate and medical reports of the counsel's maternal grandfather are annexed herewith as ANNEXURE P-4.”

7. In ***Desh Raj vs. Balkishan (Dead) through Proposed Legal Representative Ms. Rohini***, (2020) 2 SCC 708, a three Judge Bench of the Hon'ble Supreme Court had also examined the timeline for filing of written statement and laid down that in a non-commercial dispute matter, the unamended provision of Order 8 Rule 1 CPC continues to be directory and does not do away with the inherent discretion of the Courts



to condone delay.

8. In the light of the aforesaid and the law laid down by the Apex Court, I am of the considered opinion that ends of justice would be adequately met if the delay in filing written statement is condoned and one opportunity is granted to the petitioners for filing their written statement on the date already fixed before the learned Tribunal. No prejudice would be caused to the other side in case the claim petition is decided on merits, after affording due opportunity to contest the same. It is settled law that the procedural law is always subservient to and is in aid of justice.

9. Resultantly, the present revision petition is allowed. The impugned order dated 24.03.2025 (Annexure P-1) is set aside and one opportunity is granted to the petitioners (respondent Nos.1 and 2 in the claim petition) to file their written statement on or before the date fixed before the learned Tribunal. It is made clear that failing to file the written statement in terms of this order, the petitioners would not be entitled to any further opportunity for the said purpose and the Tribunal would proceed with the matter without this order having any bearing on the trial.

10. The revision petition is disposed of in the aforesaid terms.

11. Pending applications, if any, also stand disposed of.

July 17, 2025

sumit.k

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes / No
Whether Reportable : Yes / No