



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

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**CR-5007-2022 (O&M)
Date of Decision: 10.01.2025**

ANKIT (SINCE DECEASED) THR LRS AND ANR Petitioners

VERSUS

NILAM DEVI AND OTHERS Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. J.P. Sharma, Advocate for the petitioners.

Mr. S.K. Tripathi, Advocate for respondents No.1 and 2.

Mr. Shubham Gupta, Advocate for
Mr. D.P. Gupta, Advocate for respondent No.6.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 12.09.2022 passed by the learned Motor Accident Claims Tribunal, Narnaul whereby the present petitioners have been impleaded as parties under Order 1 Rule 10 CPC.

2. Brief facts relevant to the present *lis* are that an accident took place on the intervening night of 17/18.05.2019. The deceased – Nitin – along with other co-villagers was travelling in a Balero car bearing registration No.HR-35-P-0379. At about 10:30 pm when they reached in the area of Village Uchi Bhandor on Ateli Mahendergarh Road, a Brezza car bearing registration No.HR-82-3851 was ahead of them and while the Balero

car was crossing the Brezza car, the Brezza car driver turned towards the Balero. As a result, the Balero car lost its balance and struck against a tree. As a result, all the occupants of the Balero car lost their lives. The claim petition was filed by the claimants, who are the legal representatives of Nitin (since deceased). In the claim petition the allegations are only against the driver and the owner of the Brezza car and no allegations have been made against the owner and the driver of the Balero car in which Nitin (the deceased) was travelling. During the pendency of the claim petition an application was filed by the claimants for impleading the legal representatives of the driver of the Balero car as the driver, namely, Ankit had also lost his life in the accident. The said application was allowed vide the impugned order dated 12.09.2022. Hence, the present revision petition.

3. Learned counsel for the petitioners would contend that there is not a whisper in the claim petition that there was any fault of the driver of the Balero car and hence the petitioners could not have been impleaded as parties. It is further the contention that without there being any allegations, the present petitioners are being unnecessarily dragged into the litigation.

4. *Per contra*, learned counsel for the claimant-respondents No.1 and 2 would contend that the petitioners would be necessary parties as in case at a later stage a finding is returned that it was a case of composite negligence, the claim petition would fail only on the grounds that the owner and the driver of the Balero car were never impleaded as parties. Learned counsel, on a query by the Court, as to whether there has been any amendment or any allegations having been made in the claim petition qua

the driver of the Balero car, has answered in the negative and that there is no allegation made in the claim petition of any rash and negligent driving on the part of Ankit (the deceased) who was the driver of the Balero car in which Nitin (the deceased) was travelling.

5. Heard.

6. In the present case, admittedly, there is not a whisper that there was any negligence on the part of driver of the Balero car. Merely filing an application under Order 1 Rule 10 CPC for impleading a party would be of no benefit without there being any averments in the claim petition qua any rash and negligent driving by the driver of the Balero car. In the absence of any pleadings, the order dated 12.09.2022 cannot be sustained.

7. In view of the above, the present petition is allowed and the impugned order dated 12.09.2022 is set aside.

8. Needless to say that the claimants would always be at liberty to avail their remedies as available in law.

9. Pending applications, if any, also stand disposed off.

10.01.2025

Aman Jain

(ALKA SARIN)

JUDGE

*NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*