
(2019) 10 SHI CK 0092
In the High Court Of Himachal Pradesh
Case No : CMPMO No. 579 Of 2017

Reliance General Insurance Co. Ltd	Vs	APPELLANT
Kaushalya Devi & Others		RESPONDENT

Date of Decision : 16-10-2019

Acts Referred:

Citation : (2019) 10 SHI CK 0092

Hon'ble Judges : Sureshwar Thakur, J

Bench : Single Bench

Advocate : Jagdish Thakur

Final Decision : Disposed Of

Judgement

Sureshwar Thakur, J

1. Even though, co-respondent No.8, remains unserved, for want, of, the, requisite completest steps becoming taken, by, the counsel, for, the petitioner(s), however, since the afore is the driver, of, the offending vehicle concerned, and, even assumingly, upon, the insurer, of, the latter vehicle, hence proving, through adducing cogent evidence, qua, the insurance policy, being patently breached, (i) thereupon also, may be, the apposite indemnificatory liabilit(ies), rather, on the principle of "liability of master, for, tort of servant", would hence become conjointly saddled, upon, them, (ii) hence it is deemed not necessary, to, insist, upon, the counsel for the petitioner, to, take the requisite steps, for causing effectuation, of, valid service, upon, co- respondent No.8.

2. Be that as it may, the insurer was enjoined, to, adduce cogent evidence, vis-a-vis, the issue, appertaining, to, the driving licence, of, the driver, of, the offending vehicle, being forged, or, being fictitious, and, the best witness hence to make, a, testification, qua, therewith, is, the clerk, working in the RLA office concerned. Though, the counsel for the insurer had been granted repeated opportunities, for, ensuring, the, stepping into witness box, of, the afore clerk, yet, under orders recorded, on 6.12.2017, the learned MACT-II, Solan, hence has

closed the afore evidence, of, the petitioner.

3. Though this Court would not be inclined, to, interfere with the impugned order, (a) as, a reading of the order(s), made prior thereto, by the learned MACT concerned, unveil(s) qua the latter granting several unavailed opportunities rather, for, the requisite purpose, to, the insurer, (b) however, the conspicuous facet which rather constrains this Court, to, make interference(s) with the impugned order(s), is the fact, that the learned Tribunal concerned, though had ordered for summoning, of, the witness concerned through bailable warrants, and, moreso, when for the afore purpose, the requisite monies, was/were, deposited by the counsel, before the establishment, of, the learned MACT concerned, (c) hence despite, any, asking for service being caused, upon, the afore witness, through dasti mode, rather, enjoined, upon, the learned Tribunal, to, ensure, the, execution, of, bailable warrants, upon, the afore witness, (d) however, the learned Tribunal concerned, without awaiting for execution, of, bailable warrants, upon, the witness concerned, rather proceeded to close, the, evidence of the petitioner, merely, hence upon a, flimsy reason qua, for, want of, the requisite steps, being taken, by the counsel, for, the insurer, for, service through dasti mode, becoming caused, upon, the witness concerned, per-se though, only, an, alternative or a substitutory mode, vis-a-vis, the afore. All the afore infirmities hence constrain this Court, to, set aside the impugned order, of, 6.12.2017. The learned Tribunal concerned, is, directed to grant, one, more opportunity, to the counsel for the insurer, to, ensure, the, stepping into witness box, vis-a-vis, the clerk of the RLA concerned, and, further in case there is, yet, a refusal on the part of the witness concerned, to, make compliance therewith, thereupon, the learned Tribunal concerned, may, in accordance with law, ensure his stepping into the witness box, through, his being summoned, by execution upon him, the apposite non-bailable warrants. The parties, are, directed to appear before the learned Tribunal concerned, on 11.11.2019.

4. In view of the above, the instant petition is disposed of. All pending applications, if any, also stand disposed of.

5. Any observation made herein above shall not be taken as an expression of opinion on the merits of the case, and, the learned Tribunal concerned, shall decide the matter uninfluenced, by any observation made hereinabove.