

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR No.4229 of 2009.

Decided on:- May 28,2015.

Gurdev Kaur

.....Petitioner.

Versus

Ajmer Singh and others

.....Respondents.

CORAM: *HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON.*

Argued by:- Mr. Munish Jolly, Advocate,
for the petitioner.

Mr. R.C.Gupta, Advocate,
for respondent No.5.

Dr. Bharat Bhushan Parsoon, J.

Consequent upon death of Kartar Singh in a motor vehicular accident on 24.09.2003 in the area of Dhuri City, his widow Smt. Amarjit Kaur @ Bhinder Kaur alongwith his son Nirmaljit Singh a minor of 11 years, had filed a petition before Motor Accident Claims Tribunal, Sangrur impleading driver, owner, insurer as also mother of Kartar Singh (deceased) as proforma beneficiary respondent, as parties in the said petition. When the petition was contested, rival claims of the parties were reflected in the issues which were framed by the Tribunal. Oral as well as documentary evidence was adduced. Ultimately compensation to the following effect was allowed to the parties:-

Smt. Amarjit Kaur @ Bhinder Kaur (widow) - claimant No.1	Rs.1,33,800/-
Nirmaljit Singh (minor son) – claimant No.2	Rs.90,000/-
Smt. Gurdev Kaur (mother) – respondent No.6	Rs.50,000/-

Motor Accident Claims Tribunals, Sangrur had announced this Award on 05.05.2004.

2. Aggrieved with this Award, only Smt. Amarjit Kur @ Bhinder Kaur and Nirmaljit Singh (minor) had filed a joint appeal viz. FAO No.4255 of 2005. As Smt. Gurdev Kaur mother of the deceased, petitioner herein, was a proforma respondent i.e. beneficiary in the main petition, she had been impleaded in the appeal as well, as one of the respondents.

3. During the course of proceedings of the appeal, the matter had gone to the Permanent Lok Adalat of this Court. When the matter was taken up by Bench No.3 of Daily Lok Adalat of this court the matter was settled in favour of the widow and her son and over and above their share another sum of Rs.80,000/- was awarded by the Lok Adalat in full and final settlement of their claim.

4. Aggrieved with this settlement of 16.02.2009 of Permanent Lok Adalat of this court, a revision petition has been preferred by Smt. Gurdev Kaur respondent No.6, petitioner herein, claiming that she is Class-I heir and was entitled to enhanced compensation to be allowed by the Lok Adalat. It is urged that no compromise could have been arrived, at her back. It is claimed that without affording an opportunity to the petitioner, compromise was entered into between the two appellants on the one side and the Insurance Company on the other. It is claimed that valuable right of the petitioner-mother has been jeopardised.

5. It is urged that neither the petitioner-mother was allowed any compensation nor even was taken into confidence before enhancing the amount of compensation of the widow and son of the deceased.

6. Counsel for the petitioner has urged that she is a class-1 heir being mother of the deceased and thus was entitled for enhancement of the compensation. Counsel for the respondent on the other hand has claimed that since the petitioner was not an appellant, she was not entitled for any relief. Dismissal of the petition has been sought.

7. It is worth notice that vide Award of the Tribunal different quantum of compensation had been allowed to claimants i.e. widow and minor son as also to mother who was impleaded as respondent beneficiary. Thereafter, only widow and son are the appellants. No appeal was preferred by the respondent-mother of the deceased, petitioner herein.

8. Law helps those who help themselves. Law respects vigilant litigants. Slumbering and snoring litigants suffer for their inactivity. Law is a friend. It is not a foe. If one does not seek help of law, one should not expect showers of help and benevolence of law coming unexpectedly from it. In any case, law should not be blamed for non rendering of help, when it was never asked for. It is to be made abundantly clear that if a litigant sleeps over the matter and is not awakened, he does so to his peril.

9. It is clear from record that respondent-mother, petitioner herein, had never approached the court for enhancing her compensation. Rather, she was satisfied with the quantum of compensation awarded to her by the Tribunal. When the petitioner-mother had not felt aggrieved by the Award of 05.05.2004 and the appeal was filed only by the widow and the son of the deceased, it is obvious that attention of the Lok Adalat thus was focused on

the appeal before it. When mother of the deceased had not even knocked at the court for enhancement of her compensation, she was not entitled for any share from their enhanced compensation.

10. Appellants no.1 and 2 in FAO No.4255 of 2005 had sought enhancement of compensation and in view of the settlement arrived at between the parties, Rs.80,000/- over and above the amount awarded to them by the Tribunal was allowed to them only in full and final settlement of their claim and this settlement was binding upon them. Though petitioner Smt. Gurdev Kaur was impleaded as proforma respondent in the aforesaid FAO but she had neither filed independent appeal nor cross-appeal nor even counter objections. At this stage of the present revision petition, she can not be allowed to agitate the matter, particularly when she did not choose to file an appeal etc. against the order of the Motor Accident Claims Tribunal.

11. Authorities i.e. ***Sant Ram and others Versus State of Punjab and others 2008(4) R.C.R. (Civil) 39 (P&H) & State of Punjab & Anr. Versus Jalour Singh & Ors. 2008(1) R.C.R. (Civil) 857 (SC)*** cited by learned counsel for the petitioner with due deference to the law so laid down therein, are not relevant in the facts and circumstances of the present case because the petitioner was arrayed only as proforma respondent and she had neither filed any cross-objections etc. nor had opposed the awarded amount by appearing before the Lok Adalat.

12. To suffer repetition, Smt. Gurdev Kaur mother of the deceased now petitioner, can not avail benefit without having agitated her grouse. Only, he who invokes the litigative machinery, is as a matter of right, entitled to participate in the proceedings for enhancement of compensation, if any. If a party has neither approached the Appellate Court by way of filing an independent FAO nor has filed cross appeal, meaning thereby that she

had felt satisfied with the amount of compensation allowed to her by the Insurance Company.

13. Consequently, there is no merit in the petition; the same is hence dismissed.

May 28, 2015
prince rana

(Dr. Bharat Bhushan Parsoon)
Judge

1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?