

CR No. 2925 of 2015(O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 2925 of 2015(O&M)

Date of decision : May 24, 2016

State of Haryana and another

..... Petitioners

Versus

Man Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. D. K. Mittal, DAG., Haryana
for the petitioners.

Mr. Aman Vashisht, Advocate
for respondent No.5.

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

Amit Rawal, J (oral).
CM No. 8903-CII of 2015

This is an application under Section 151 CPC seeking condonation of delay in refiling the revision petition.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 824 days in refiling the revision petition is condoned.

The application stands disposed of.

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The petitioner-State is aggrieved of the impugned order dated 9.10.2012 whereby the executing court has exceeded jurisdiction by going behind the decree and merged the decree in the decree of the lower appellate court dated 14.8.2007.

Mr. D. K. Mittal, learned DAG., Haryana appearing on behalf of the petitioner submits that the decree envisage payment of other benefits and it does not envisage payment of ex-gratia payment. The executing court cannot go behind the decree and has to confine within the parameters of decree. In essence, had gone beyond the decree by holding that the policy dated 28.2.2003 with regard to non-specified claim qua disbursement of ex-gratia payment shall be applicable. Admittedly the husband of the decree holder died on 28.9. 2000 and at that time policy of 1995 was in vogue.

Mr. Aman Vashisht, learned counsel appearing on behalf of respondent No.5 submits that word extra would embrace the payment of ex-gratia and policy of 2003 has rightly been made applicable by the executing court on the ground that there was no objection with regard to ex-gratia payment but the objection was qua the applicability of 1995 policy or 2003 policy, thus urges that there is no illegality and perversity in the impugned order and prays for affirming the impugned order.

I have heard learned counsel for the parties and appraised the paper book and of the view that executing court cannot go behind the decree. Even if the word “extra”embraces ex-gratia payment as per settled law ultimately the deceased would be entitled to ex-gratia payment taking reckoning the date of death of the deceased and not subsequent notification. As noticed above, Gian Chand died on 28.9.2000 and at the time of his death the letter dated 20.6.2002 was prevailing and the policy of 2003 would not apply.

The aforementioned aspect and the settled proposition of law has not been noticed by the executing court. There was some

confusion with regard to the applicability of the State Government Scheme. The same has been set at rest by the judgment rendered by Full Bench of this Court in CWP No. 4303 of 2009 in **Krishna Kumari Vs. State of Haryana and others** decided on 20.4.2012 and judgment rendered by the Hon'ble Supreme Court in **Canara Bank and another Vs. M. Mahesh Kumar (2015) 7 SCC 412.**

For the foregoing reasons, the impugned order is not sustainable and the same is set aside.

_____ The revision petition is allowed.

(AMIT RAWAL)
JUDGE

May 24, 2016
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