

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

CWP No.20403 of 2016

Date of decision: 29.09.2016

Cholamandlam MS General Insurance Co. Ltd. ...Petitioner

Versus

Suman Devi and others ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Punit Jain, Advocate for the petitioner.

Rakesh Kumar Jain, J. (Oral)

This petition is filed by the Insurance Company in order to challenge the order dated 12.12.2015 passed by the Lok Adalat and order dated 27.05.2016 passed by the MACT, Kaithal by which an application filed by the petitioner for recalling of the order has been rejected.

Counsel for the petitioner has submitted that one Sukhwinder Singh died in a vehicular accident. His three sisters filed a claim petition No.74 of 2015 titled as Smt. Suman Devi and others v. Naresh Kumar and others under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') before the Motor Accidents Claims Tribunal, Kaithal. The said claim petition was ultimately referred by the Court to the Lok Adalat where the matter was settled between the parties at an amount of ₹4,25,000/-. It is submitted that the sisters of the deceased fraudulently filed the application alleging that the parents of the deceased have already expired whereas mother of the deceased is alive and has

separately filed a petition claiming compensation. When the petitioners came to know about this fact, they filed an application in MACT Case No.74 of 2015 for recalling of that order. The said application has been dismissed by an order dated 27.05.2016 and hence the present petition has been filed on the ground that in case of fraud, writ is the only remedy available to the petitioners. He has also relied upon a decision of the Supreme Court in the case of State of Punjab and Jalour Singh and others, 2008(1) S.C.T. 562. He has further argued that the petition filed by the mother is still pending. It is submitted that he would be satisfied if the present petition is disposed of with a direction that the Tribunal while considering the claim petition filed by the mother, shall also consider the award rendered by the Lok Adalat in the case of three sisters who have fraudulently obtained the award. The request made by the petitioner is logical and hence the present petition is disposed of with liberty to the petitioner to raise this issue in the claim petition filed by the mother of deceased Sukhwinder Singh.

With the above observations, the present petition is hereby disposed of.

29.09.2016
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(Rakesh Kumar Jain)
Judge