

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

CWP No. 2597 of 2014
Date of decision: 14.09.2016

Ranjit Singh

....Petitioner

Versus

Union of India and others

....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. J.S. Bagga, Advocate,
for the petitioner.

Mr. D.P. Gupta, Advocate,
for respondents.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, the petitioner has challenged the order dated 07.03.2013 vide Annexure P-4 by which the respondents have demanded 1/3rd compensation to the tune of ₹2,53,361/- (7,60,000 X 1/3) from the petitioner driver of Gypsy.

The petitioner was driver. On 14.04.2008, when he was driving the vehicle bearing No. CH01-G1-0163 Gypsy of the respondents, met with an accident, causing death of a person namely deceased Sukhdev Singh. Arising out of the motor vehicle accident, criminal proceedings were initiated by filing FIR, in which the petitioner is stated to have been acquitted. In so far as the MACT matter is concerned, the award was passed against the petitioner and two others on 01.09.2012 by the MACT Tribunal Chandigarh. The extract of the award reads as under:-

“As a sequel to my findings on the above issues, the present claim petition succeed and is accepted partly with

costs. Claimants are awarded a total compensation of Rs. 560000/- (Rs. Five lacs Sixty Thousand only) on account of the death of Sukhdev Singh out of which a sum of Rs. 260000/- (Rs. Two lacs Sixty Thousand Only) including consortium be paid to claimant No. 1 Pritam Kaur and a sum of Rs. 150000/- (Rs. One lac Fifty Thousand only) each be paid to claimants No. 2 & 3. The claimants shall also be entitled to interest on the amount of compensation at the rate of 7.5 % per annum from the date of filing of the claim petition till realization of the amount. Respondents No. 1, 2 & 3 are jointly and severally liable to pay the amount of compensation. Share of minor Gurpiar Singh, claimant No. 3 shall be deposited in some Nationalized Bank fetching higher rate of interest, till he attains the majority with a rider that no advance or loan shall be given on the same. Counsel fee is assessed at Rs. 1100/-. Memo of costs be prepared. File be consumed to the record room."

Pursuant to the award passed by the MACT, Chandigarh dated 01.09.2012 the respondents demanded the petitioner's share of 1/3rd amount to the tune of ₹2,53,361/-. The petitioner feeling aggrieved by the demand made by the respondents presented this petition.

Learned counsel for the petitioner submits that he is only a driver. Vicarious liability would be only against the owner and not against the driver. In support of the same he cites two decisions which are reported in **2005 (3) RCR (Civil) 138 titled as Pritam Chand Vs. HRTC and another** (FAO No. 362 of 1999 decided on 07.01.2005). Further relies on decision of Andhra Pradesh High Court reported in **2005 AIR (A.P) 482 titled as Damera Narsimha Reddy Vs. Syed Ibrahim and others** (in a civil revision petition No. 2674 of 2005 decided on 25.07.2005). Learned counsel submits that in view of the aforesaid decisions, the petitioner is not liable to pay any compensation as awarded by the MACT Chandigarh. Though it is stated that jointly and severally liable to pay the amount of

compensation driver cannot be included in jointly and severally. Therefore, the demand made by the respondents vide Annexure P-4 dated 07.03.2013 is liable to be set aside.

Per contra learned counsel for the respondents submits that demand vide Annexure P-4 is in terms of the award passed by the MACT, Chandigarh dated 01.09.2012. As long as the petitioner fails to challenge the award dated 01.09.2012 the same is binding on him. He is liable to pay 1/3rd compensation to the tune of ₹ 2,53,361/-. Thus, the petitioner has not made out a case so as to interfere with Annexure P-4 dated 07.03.2013.

Heard learned counsel for the parties.

The short question for consideration in the present petition is whether the petitioner is liable to pay compensation as awarded by the MACT, Chandigarh dated 01.09.2012 vide Annexure P-2 or not. The petitioner has failed to question the award of the MACT Chandigarh dated 01.09.2012 till date therefore the award has attained finality and the award dated 01.09.2012 is binding on the petitioner as well as official respondents No. 2 and 3. Learned counsel for the petitioner relies on decisions on Himachal Pradesh High Court and Andhra Pradesh High Court. Perusal of the details it is evident that first appeal was against order passed by the MACT so also civil revision petition filed before the Andhra Pradesh High Court was passed against the MACT order and not the writ petition as in the present case. Therefore, deciding whether the petitioner being a driver would be put into definition of jointly and severally liable to

pay amount of compensation in the motor vehicle accident or not do not arise. Therefore, the cited decisions do not help the petitioner in any manner. Having regard to the fact that the petitioner has not challenged the validity of the award dated 01.09.2012 passed by the MACT Chandigarh, he is bound by the award therefore there is no lacuna what so ever in respect of Ex. P-4 demand made by the respondents to deposit 1/3rd compensation to the tune of ₹ 2,53,361/- which is petitioner's share. Hence the petitioner has not made out a case so as to interfere with Annexure P-4

Petition stands dismissed.

At this stage learned counsel for the petitioner relies on another judgment namely *Narinder Pal Singh Vs. Punjab State through Secretary 1989 (P&H) 1982* in which it is held that it is the duty of the Tribunal to apportion the compensation even in the case of joint and several liability, without which it would not be a complete determination by it. In the present case the petitioner has not assailed award passed by the MACT Chandigarh therefore the cited decision namely *Narinder Pal Singh* (supra) is not applicable to the present case.

14.09.2016

PA

(P.B. Bajanthri)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No