IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.5738 of 2015 (O&M)
Date of Decision: 19.09.2017

United India Insurance Co Ltd.
......Petitioner

Vs

Parvinder Kaur and others
....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Paul S. Saini, Advocate
for the petitioner.

Mr. Vivek K. Thakur, Advocate
for respondent Nos.1 to 3.

Mr. H.P.S. Bhinder, Advocate
for respondent Nos.4 and 5.

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RAJ MOHAN SINGH, J.

[1]. This revision petition has been preferred by the petitioner-Insurance Company against the award dated 27.05.2006 and order dated 25.07.2014 passed by the Motor Accident Claims Tribunal, Amritsar (hereinafter to be referred as 'the Tribunal').

[2]. Brief facts are that claimants/respondent Nos.1 to 3 filed a claim petition under Section 166 of the Motor Vehicles Act against Kuldeep Singh driver of the scooter, Joginder Singh

owner of the scooter and United Insurance Co. Ltd. Insurance Company of the scooter for the grant of compensation on account of death of Bhupinder Singh in a vehicular accident on 05.12.2004.

[3]. The claim petition was resisted by all the respondents. The driver and owner of the scooter namely Kuldeep Singh Joginder Singh took the following stand in para 24 of the written statement:-

> *"24. That para No.24 of the petition is absolutely wrong and denied. It is denied that respondent No.1 was negligent in his driving on the day of 05.12.2004 when the deceased Bhupinder Singh s/o S. Ajit Singh on his motor cycle bearing No.PB-02-6374 (Temp) was going from Tarn Taran to Amritsar and met with an accident. In fact, the deceased Bhupinder Singh was driving his motor cycle very fast and negligently and when respondent No.1 reached near Village Thani Pulli, Duburji while overtaking a Truck was startled by a dog, which was crossing the road, the deceased was following the respondent No.1 stridded when he applied brakes, struck the rear portion of the scooter and fell on the road. The respondent No.1 also received injuries in the accident. Rest of the para regarding the age earning and dependency of the deceased is denied and the petitioner be put to the strict proof thereof. Rest of the para is also denied."*

[4]. The matter was listed before the Presiding Officer, Permanent Lok Adalat, Amritsar. On 27.05.2006, a compromise

was arrived at between the parties. The Insurance Company agreed to make payment of Rs.7,25,000/- as full and final settlement in the case within the stipulated period. In view of terms and conditions of the compromise, the claimant No.1 gave a statement that she has no objection if the award to the tune of Rs.7,25,000/- is passed in favour of the claimant. The Permanent Lok Adalat ordered that an amount of Rs.3,25,000/- be paid to the claimant No.1 and the remaining amount of Rs.4,00,000/- be paid to claimant Nos.2 and 3 in equal shares. The shares of the minor claimant Nos.2 and 3 were ordered to be deposited in the shape of fixed deposits in their names in some nationalized Bank and be paid to them on attaining the age of majority.

[5]. The aforesaid settlement was done on 27.05.2006 before the Permanent Lok Adalat, Amritsar. Thereafter driver of the scooter Kuldeep Singh and her mother Surinder Kaur filed affidavits before the Investigator of the Insurance Company on 29.08.2006 and 06.10.2006 respectively and pleaded some different story in the context of accident in question.

[6]. On the basis of some investigation got done by the Insurance Company through its Investigator, the objections were filed by the Insurance Company before the District Judge-cum-Motor Accident Claims Tribunal, Amritsar. The claimants filed

reply to the aforesaid objections to the effect that the award of the Permanent Lok Adalat has become final and no further appeal can be filed. Reliance was placed upon ***P.T. Thomas vs. Thomas Job, 2005(3) R.C.R. (Civil) 621***.

[7]. The District Judge vide order dated 09.08.2011 in execution, after noticing the fact that the parties had arrived at settlement with consent as no fraud is shown to have been played and the claim petition under Section 166 of the Motor Vehicles Act being a welfare legislation was utilized for loss of life of earning member of the claimant family way back on 05.04.2004 and the award was passed on 25.05.2006. The claimants could not reap the fruits of the award till date and the Insurance Company has not made the payment despite agreeing to make the payment of award within stipulated period. It was ordered that the Insurance Company would release the payment to the claimants on furnishing indemnity bond in the sum of Rs.10 lacs with one surety of the like amount with the undertaking to refund the same to the Insurance Company in the event of Insurance Company succeeding in getting the award set aside on the separate application moved by it for recalling the award.

[8]. Thereafter vide the impugned order dated 25.07.2014 the Tribunal dismissed the application being bereft of merits.

That is how the present revision petition came to be filed before this Court.

[9]. Learned counsel for the petitioner contended that the award before the Permanent Lok Adalat was obtained by playing fraud with the Court and by falsely alleging that the matter was compromised. Joginder Singh had already died in the year 2003. The applicant-Insurance Company was falsely adduced by the claimants to enter into compromise by bringing on record false and distorted facts before the Permanent Lok Adalat. In fact no notice was received by Surinder Kaur widow of Joginder Singh as the said Joginder Singh had already died and no application was filed by the claimants for bringing on record the legal representatives of Joginder Singh on record. The application was filed by the claimants in connivance with some other lady impersonating Surinder Kaur wife of late Joginder Singh. The said application was purportedly signed in English whereas Surinder Kaur claimed herself to be illiterate lady and only used to affix thumb mark.

[10]. Learned counsel further contended that the impugned award having been obtained with fraud vitiates all solemn acts. In case of fraud, no limitation is attracted and the limitation starts from the day on which the fraud is detected. A party committing fraud can be thrown out at any stage of the litigation.

[11]. I have heard learned counsel for the parties.

[12]. Perusal of the order dated 27.05.2006 shows that the Insurance Company had agreed to make payment of Rs.7,25,000/- as full and final settlement to which claimants gave no objection. Thereafter affidavits were filed by Kuldeep Singh and Surinder Kaur before the Investigator of the Insurance Company. No complaint was filed before the Police. The award was passed on 27.05.2006. Factum of vehicle being insured could not be denied. The factum of accident and consequent death have also not been denied by the Insurance Company.

[13]. In view of reply filed by the respondent Nos.1 and 2 in terms of para no.24 of the written statement, no such indulgence at the instance of the Insurance Company can be granted at this stage, when the award itself has attained finality. The written statement was filed by Kuldeep Singh and Joginder Singh jointly. If Joginder Singh had already expired in the year 2003, then filing of the joint written statement of Kuldeep Singh son of Joginder Singh for himself as well as on behalf of Joginder Singh was required to be objected to by the Insurance Company at the relevant stage, when it filed the written statement on 09.05.2005.

[14]. Recording of statement of Surinder Kaur wife of Joginder Singh even after the award passed by the Permanent Lok Adalat would not impel this Court to intervene in the subject issue particularly, in view of the fact that in a welfare legislation factum of death and offending vehicle being insured with the petitioner having not been denied. It is only on the ground of alleged impersonation, the Insurance Company wants to get rid of the award at this juncture, particularly when a compromise was effected at the instance of petitioner-Insurance Company which was accepted by the claimants on 27.05.2006. Now after more than 11 years, this Court feels that the settled things should not be unsettled particularly when factum of death and the offending vehicle being insured with the petitioner-Insurance Company have not been denied.

[15]. In view of above, the present revision petition is hereby dismissed being devoid of merits.

September 19, 2017 **(RAJ MOHAN SINGH)**
Atik **JUDGE**

Whether speaking/reasoned Yes/No
Whether reportable Yes/No