IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-5369-2017
Date of Decision:- 16.08.2017

United India Insurance Company Limited

.....Petitioner

Versus

Bohati Devi and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashwani Talwar, Advocate,
for the petitioners.

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<u>RITU BAHRI, J. (Oral)</u>

Present revision petition under Article 227 of the Constitution of India for setting aside the order dated 17.05.2017 (Annexure P-6), passed by learned District Judge, Hisar whereby the Executing Court of MACT, Hisar has interpreted the judgment of this Court dated 05.02.2014 passed in FAO-1168-1999 (Annexure P-2) and directed the appellant-Insurance Company to disburse even the portion of the awarded amount.

As is evident from the record that the Executing Court, after taking into consideration the facts and all the contentions pertaining to appreciation of evidence, has passed the impugned order dated 17.05.2017, which in substance is as under

> "The directions "however, it is made clear that the management and apportionment of the compensation shall be in the same manner as indicated in the award of the Tribunal" does not refer to liability of Insurance Company to the extent of 50% alone. "Management and Apportionment" refers to how much amount of total compensation shall fall to the share of each claimant and whether the said compensation shall be paid in cash or kept in FDR. So the directions regarding management and apportionment does not cover the issue of liability of Insurance Company. Faced with this learned counsel for the respondent/insurance company has argued that paragraph produced above and relied upon by learned counsel for the claimant is not the findings given by the Hon'ble High Court but Court has noted only the contention raised by the appellants.
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> 10. Contention raised by learned counsel for the respondent/Insurance company, however, cannot be accepted if the judgments read as a whole. In fact, it clearly made out that Hon'ble Court had accepted the contention of claimants and concluded that merely because deceased were travelling on the roof of Bus, the Insurance Company cannot be exonerated, therefore, the liability of the Insurance Company cannot be restricted to 50% as was held by the Tribunal vide award of 21.10.1998.
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> 11. On consideration of second argument raised by insurance company, I find that the consequences of judgment of Hon'ble High Court cannot be foregone merely because it was misinterpreted or compensation was miscalculated. It is admitted case that the entire compensation as was awarded by the Hon'ble High Court was never paid by the Insurance Company. The Insurance Company had only paid compensation after calculating the same to the extent of 50% as per award dated 21.10.1998. Learned counsel for the claimants has submitted that it was under wrong impression and mis-interpretation of judgment of Hon'ble High Court that earlier execution petition was withdrawn as fully satisfied. Subsequently the counsel for the claimants in Hon'ble High Court, had informed that the High Court judgment has been wrongly interpreted, the second execution petition was accordingly filed.
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> 12. Statement dated 26.11.2015 cannot stand in the way of claimants to recover the compensation as awarded by the Hon'ble High Court. The said

statement was clearly made under a wrong impression and due to mis-interpretation of judgment of Hon'ble High Court and therefore cannot restrict the rights of the claimants. Since entire enhanced compensation awarded by Hon'ble High Court is recoverable from Insurance Company and Insurance Company has only paid 50% of compensation, petitioners are entitled to recover the remaining unpaid enhanced compensation. Let, the payment be made by the Insurance Company in accordance with the judgment dated 05.02.2014 passed by the Hon'ble High Court after duly setting off compensation already paid as well as reducing interest from 12% to 8% as directed by the Hon'ble High Court."

After hearing the learned counsel for the petitioner, going through the above-said judgment, this Court of the considered view that the Executing Court appears to have examined the matter in the right perspective and has directed the appellant-Insurance Company to pay the remaining enhanced compensation. Moreover, learned counsel for the petitioner did not point out any legal infirmity or illegality in the impugned order, so as to interfere, in exercise of revisional jurisdiction of this Court under Article 227 of the Constitution of India.

Since there is no merit in the present revision petition, therefore, the same is hereby dismissed as such.

August 16, 2017 **(RITU BAHRI)**
naresh.k JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No