

In the High Court of Punjab and Haryana at Chandigarh

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CR No. 6635 of 2015

Date of decision: 12.10.2017

Rajwati and another

.....petitioners

Versus

Khem Chand and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Rajesh Lamba, Advocate,
for the petitioners.

RAJ MOHAN SINGH, J (oral)

Learned counsel for the petitioners submits that respondent No.3 is the only contesting respondent and the service qua respondents No. 1, 2 and 4 be dispensed with.

Ordered accordingly.

As per office report, respondent No.3 has been duly served by means of *dasti* notice. None has appeared on his behalf.

The Motor Accident Claims Tribunal, Palwal decided the claim petition filed by the petitioners, vide award dated 15.9.2011, thereby accepting the claim petition partly with costs.

An Amount of ₹ 4,47,000/- was awarded as compensation in

favour of the claimants-petitioners against the respondents, who were held jointly and severally liable to pay the amount of compensation along with interest @ 7% per annum from the date of institution of the claim petition till final realization of the amount. Further arrangement was made in respect of apportionment of the amount of compensation in favour of different claimants. In execution of the aforesaid award, the property of respondent No.3 was attached.

Vide the impugned order dated 29.5.2015, 1/3rd liability of respondent No.3 has been segregated on the basis of statement of respondent No.3 that he would pay the proportionate 1/3rd share of the impugned award. On the basis of said statement 1/3rd of the amount was worked out to be ₹ 2,34,478/- and respondent No.3 was directed to deposit the difference of the amount which had already been deposited by him to the tune of ₹ 2,22,640/-. The attachment of the property of respondent No.3 was ordered to be lifted. Thereafter, execution was kept pending for satisfying the same from respondent Nos. 1 and 2.

Learned counsel for the petitioners submits that since the liability to answer the compensation was joint and several, therefore, there cannot be any split in joint and several liability, as ordered by the Executing Court.

I have considered the submissions made by learned

counsel for the petitioners.

Apparently, the liability was joint and several and the same could have been satisfied by any of the respondents in toto. The segregation on the basis of proportion can not be allowed by the Tribunal, as the Executing Court cannot go beyond the award. Hence, the impugned order dated 29.5.2015 is set aside. The amount deposited by respondent No.3 shall be credited towards consolidated amount for which all the respondents are jointly and severally responsible to make good the award in question. Consequently, the status of the property of respondent No.3 shall be restored to the original position as it existed prior to passing of the impugned order.

The revision petition is allowed in the aforesaid terms.

(RAJ MOHAN SINGH)
JUDGE

October 12, 2017

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Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No