

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.4076 of 2014
Date of decision:23.01.2018

Shivani

... Petitioner

Vs.

Deen Mohamed @ Shakur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ishan Cooner, Advocate, for
Mr. J.S.Cooner, Advocate
for the petitioner.

Mr. R.K.Bashamboo, Advocate
for respondent No.3.

Mr. Vineet Chaudhary, Advocate
for respondent No.4.

AMIT RAWAL J. (Oral)

The present revision petition has been directed against the impugned order dated 30.11.2013 (Annexure P-5), whereby, the claim petition has been adjourned sine die.

Swaran Kaur, mother of the petitioner died in a motor vehicular accident on 18.08.2011 and two claim petitions were filed for claiming a compensation on account of her death. That Ist claim petition titled as Surinder Kumar and another vs. Deen Mohamed and others dated 08.10.2012/15.11.2012 (Annexure P-1) and 2nd claim petition filed by the petitioner-Shivani titled as Shivani and Chander Shekhar vs. Deen Mohamed and others (Annexure P-2) and vide order dated 14.05.2012, the

Tribunal consolidated both the petitions and proceedings were recorded in claim petition titled as Surender Kumar and others vs. Deen Mohamed and others. The Oriental Insurance Company moved the application for adjourning the claim petition sine die as the dispute involved the question of entitlement of compensation and title of Swaran Kaur owing to the fact that until and unless, the same is not decided, it would be very difficult for the Tribunal or the Insurance Company to discharge the liability. It is in this background of the matter, the application was allowed and the claim petition was adjourned sine die.

Learned counsel for the petitioner submitted that the impugned order suffers from illegality and perversity, for, the proceedings in the claim petition, were allowed to continue for determination of the compensation but there could have been a rider for apportionment of the compensation i.e. by giving a right to the party to claim title on the basis of evidence produced in the independent suit but not in the manner and mode as indicated above.

Per contra, Mr. R.K.Bashamboo, learned counsel appearing on behalf of respondent No.3-Insurance Company submitted that the order under challenge is perfectly legal and justified. The application was moved only when the witnesses were cross-examined giving rise to the apprehension with regard to apportionment of compensation determined by the Tribunal on account of death of Swaran Kaur.

I have heard learned counsel for the parties and appraised the paper book.

The filing of two claim petitions claiming compensation on account of death of Swaran Kaur is not in dispute. Surinder Kumar claimant has claimed himself to be second husband of Swaran Kaur, whereas, Shivani being adopted daughter of Swaran Kaur.

I am of the view that application moved at the behest of the Insurance Company was not maintainable as the Tribunal ought to have proceed further with the claim petition leaving open to the parties to stake the claim with regard to relationship as contemplated under Section 50 of the Indian Evidence Act but not in the manner and mode as indicated above.

Resultantly, the impugned order is hereby set aside with a direction to the Tribunal to proceed further with the claim petition and determine the compensation on account of death of Swaran Kaur as per the evidence brought on record with the aforementioned rider, i.e., leaving open to the parties to stake the claim including the movable and immovable properties in an independent suit.

Revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

January 23, 2018

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No