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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
2019.05.06 16:31
I attest to the accuracy and
authenticity of this document

FAO-975-2000

Date of decision : 2.5.2019

Kumari Raj Kali

..... Appellant

Versus

Sunder and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. C.B. Goel, Advocate,
for appellant.

Mr. Vinod Gupta, Advocate.

Mr. Varun Sharma, Advocate, for,
Mr. Satpal Dhamija, Advocate,
for respondent No. 3.

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KULDIP SINGH J. (ORAL)

Appellant-claimant is aggrieved by award dated 30.11.1999, passed by Motor Accident Claims Tribunal, Gurgaon, vide which claim petition filed by appellant was dismissed.

I have heard learned counsel for parties and have also carefully gone through file.

The case of appellant-claimant is that she is daughter of Ram Sumer (deceased) who died in motor vehicle accident on 11.11.1997. Appellant-claimant claims that she is natural daughter of Shri Ram Sumer (deceased) and, therefore, she filed claim petition. When evidence of appellant-claimant was recorded as PW2, she stated in cross examination that when she was child, aged about 2/3 years, she was adopted by Sona, sister of Ram Sumer (her father). Since then, she is living with Sona and her husband at village Katra Lal Ganj. She further stated that she treated Sona and her husband as her parents. She further admitted that she has also

got real sister Phoolwati. Said Phoolwati is stated to be dead. Phoolwati did not come forward to claim compensation. In view of fact that appellant-claimant admitted that she was adopted by Sona and her husband, Tribunal held that claimant is not LR of Ram Sumer and is not entitled to compensation.

The learned counsel for appellant-claimant has argued that adoption was not valid as appellant-claimant was 2/3 years at the time of her adoption. Appellant-claimant filed claim application for compensation being real daughter of Ram Sumer. Her admission is not binding on her.

I am of the view that proceedings before Tribunal are summary in nature. In order to get claim, appellant-claimant has to prove that she is legal heir of Ram Sumer or at least one of legal heirs of deceased. Once appellant-claimant admits that in childhood, she was adopted by sister of her father and she was living with adopted parents and treated them as parens, she lose all connections with natural family and, therefore, she is not legal heir of natural father Ram Sumer and not entitled to claim compensation.

The learned counsel for appellant has relied upon of Hon'ble the Supreme Court of India in Smt. Manjuri Bera Versus The Oriental Insurance Company Ltd. and another 2007 (2) RCR (Civil) 674. It has been pressed that legal heir includes intermeddles and could represent estate of deceased even though he may or may not be legal heir. Relevant extracts from paras 11, 12 and 15 are reproduced as under :-

'11. According to Section 2(11) of CPC, "legal representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party

sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued. Almost in similar terms is the definition of legal representative under the Arbitration and Conciliation Act, 1996, i.e. under Section 2(1)(g).

12. As observed by this Court in **Custodian of Branches of BANCO National Ultramarino v. Nalini Bai Naique** (AIR 1989 SC 1589) the definition contained in Section 2(11) CPC is inclusive in character and its scope is wide, it is not confined to legal heirs only. Instead it stipulates that a person who may or may not be legal heir competent to inherit the property of the deceased can represent the estate of the deceased person. It includes heirs as well as persons who represent the estate even without title either as executors or administrators in possession of the estate of the deceased. All such persons would be covered by the expression 'legal representative'. As observed in **Gujarat State Road Transport Corporation v. Ramanbhai Prabhatbhai and Anr.** (AIR 1987 SC 1690) legal representative is one who suffers on account of death of a person due to a motor vehicle accident and need not necessarily be a wife, husband, parent and child.

15. Judged in that background where a legal representative who is not dependant files an application for compensation, the quantum cannot be less than the liability referable to Section 140 of the Act. Therefore, even if there is no loss of dependency the claimant if he or she is a legal representative will be entitled to compensation, the quantum of which shall be not less than the liability flowing from Section 140 of the Act. The appeal is allowed to the aforesaid extent. There will be no order as to costs. We record our appreciation for the able assistance rendered by Shri Jayant Bhushan, the learned Amicus Curiae.'

After going through said authority, I am of view that present appellant is neither intermeddle nor she is entitled to inherit property of

Ram Sumer, her natural father, on account of her adoption, nor she represents estate of deceased. Ram Sumer has another daughter Phoolwati, who could legally represent estate of deceased and will inherit his estate. In her absence, her legal heirs will inherit property on account of adoption. Claimant-appellant lost all connections with his natural father and cannot represent estate of deceased. Since it is stated that Phoolwati died long back, therefore, LRs of Phoolwati would have been competent to file claim application. No ground to interfere in impugned award. Therefore, appeal is dismissed. All pending applications are disposed of.

(KULDIP SINGH)
JUDGE

2.5.2019
sjks

Whether speaking order	:	Yes	/	No
Whether reportable	:	Yes	/	No