

In the High Court for the States of Punjab and Haryana at Chandigarh

RA-CR-43-CII-2018 in

FAO-7724-2015

Date of Decision: April 29, 2019

Prem Lata and another

... Review applicants/appellants

Versus

Jitender Kumar Mishra and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ashwani Arora, Advocate,
for the review applicants-appellants.

Mr. Sushil K. Yadav, Advocate,
for the non-applicant/respondent no.3.

Amit Rawal, J. (Oral)

Present review application is directed against the order dated 18.01.2018.

Two claim petitions were filed before the learned Motor Accidents Claims Tribunal, Rewari which were decided in respect of the accident which was occurred on 01.08.2013. Thereafter, two appeals came to be filed i.e. FAO Nos. 7723 and 7724 of 2015. In the appeal i.e. FAO No. 7724 of 2015, the claimants while travelling, met with an accident with a container bearing registration No. PB-29-M-6341. This Court in FAO No. 7723 of 2015, after considering the arguments advanced by the parties, found that it was a case of composite negligence and the findings of the learned MACT was modified and the insurance company of the truck was given liberty to recover the amount from the insurance company of the car.

Mr. Ashwani Arora, learned counsel appearing on behalf of the review applicants, submitted that since this Court had dismissed the appeal by upholding the award of the MACT awarding compensation of Rs. 2,85,000/- on account of the death of three years child, but has not decided the question of composite negligence. So, one of the claimants have availed the remedy of appeal and it would be a very arduous for the applicants to seek the execution of the award.

Mr. Sushil K. Yadav, learned counsel has appeared on behalf of the Insurance Company.

I have heard the learned counsel for the parties and of the view that there is error apparent on the face of record. This Court while deciding the FAO No. 7723 of 2015 modified the award of the learned MACT and held it to be a case of composite negligence. The said findings, however, not dealt with in the present appeal.

I hereby recall the order. Instead of dismissing the appeal, it shall be construed as disposed of in terms of order dated 18.01.2018 passed in FAO No. 7723 of 2015.

April 29, 2019
vkd

(Amit Rawal)
Judge

Whether speaking / reasoned : Yes

Whether reportable : No