

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(228)

CR-522-2021

Date of Decision : April 20, 2021

Rakesh and another

.. Petitioners

Versus

Khalil and others

.. Respondents

(2)

CR-531-2021

Kusum

.. Petitioner

Versus

Khalil and others

.. Respondents

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Satyam Tandon, Advocate, for the petitioners.

Mr. Surinder Daaria, Advocate, for respondents No. 1 and 2.

Mr. Subhash Goyal, Advocate, for respondent No.3.

HARSIMRAN SINGH SETHI J. (ORAL)

By this common order, two civil revisions are being disposed of, the details of which have been given in the heading of the order as both the civil revisions involve the same question of law and similar set of facts and arise out of the same Award dated 15.07.2019 (Annexure P-1). For the sake of convenience, facts are taken from CR-522-2021.

In the present case, the challenge is to the order passed by the Tribunal dated 27.01.2021 (Annexure P-9) vide which, the permission to release the compensation amount deposited in the Fixed Deposit has been declined in favour of the petitioners.

Learned counsel for the petitioners argues that the impugned order dated 27.01.2021 (Annexure P-9) has been passed only on the apprehension that in case, the amount is being released in favour of the petitioners/claimants, the same might be misused by the petitioners/claimants to their disadvantage. Learned counsel for the petitioners submits that once in the Award dated 15.07.2019 (Annexure P-1), the present petitioners have been held entitled for the compensation, which compensation has been deposited by respondent No.3-Insurance Company in the Fixed Deposit, the petitioners are entitled for the release of the said amount as and when they need the same and the Tribunal cannot impose its view over the claimants so as to decline the release of the said amount.

Learned counsel for respondent No.3-Insurance Company submits that present order has been passed in favour of the claimants as the Tribunal has to ensure that the compensation awarded in favour of the claimants is used in best possible way it should be by the claimants. Learned counsel for respondent No.3-Insurance Company further submits that against the Award dated 15.07.2019 (Annexure P-1), the Insurance Company has already filed an FAO No.5355 of 2019, which is still pending before this Court though, there is no interim order in favour of the Insurance Company.

Learned counsel for respondents No. 1 and 2 submits that as far as the current position, the Insurance Company has been made liable for the payment of the compensation to the claimants, which compensation has already been deposited by them though, Insurance Company has been given the rights to recover the same from the owner and driver.

Learned counsel for respondents No. 1 and 2 raises no serious objection with regard to the prayer of the petitioners for the release of the amount as sought by them vide CM No.68 of 2021.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is a conceded fact between the parties that the petitioners are the claimants who have been held entitled for the compensation as awarded to them by the Motor Accident Claims Tribunal, Gurgaon vide Award dated 15.07.2019 (Annexure P-1) and the said amount of compensation has been deposited in various FDRs, the details of which have been given in the impugned order dated 27.01.2021 (Annexure P-9) itself.

A bare perusal of the order passed by the Tribunal would show that the prayer of the petitioners, who are the lawful claimants of the amount deposited in the FDRs, for the release of the amount deposited as compensation has been declined simply by mentioning that there is no pressing need or substance to grant the said request. The said view taken by the Tribunal has not been substantiated by any reason except that there is a likelihood of improper management of money by the petitioners/claimants. Once, the claimants have been held entitled for the compensation, it is for the claimants to decide as to for what purpose, they need the release of the said compensation. Tribunal cannot be allowed to act as supervisory authority over and above claimants to decide whether there is any necessary need for the release of the amount or not to the claimants. The compensation, which has been deposited in the FDRs belongs to the claimants as awarded to them by the Tribunal, hence, the claimants who are major in age, have exclusive right to decide as to how to use the said

compensation amount for their betterment and to lead a dignified life as enshrined under Article 21 of the Constitution of India. Tribunal has no jurisdiction to act as guardian on the said issue, and a claimant, who is major in age has full right to use the compensation amount as per his/her own sweet will. Claimants cannot be at mercy of the Tribunal to decide their needs and requirements in life.

It is not the case that any amount which has been awarded to the minor, is being sought to be released by the petitioners by treating them as guardian. The Tribunal will have the power to adjudge the release of the amount in case, any guardian is asking for the release of compensation, which has been awarded to the minor. Once the claimants are major in age and compensation deposited in the FDRs is their money, they have full and exclusive right to decide their needs, for which they need the compensation amount to be released to them and the order dated 27.01.2021 (Annexure P-9) passed by the Tribunal declining the release of the amount of compensation for which they have already been held entitled by treating itself to be a guardian, cannot be sustained in the eyes of law and is liable to be set aside being without jurisdiction.

Keeping in view the above, the impugned orders dated 27.01.2021 (Annexure P-9 in CR No.522 of 2021 and Annexure P-8 in CR No.531 of 2021) are set aside. The amount as deposited in the FDRs No.39739804787, 39739805204 and 39739805500 of Smt. Surja and FDRs No.39739803319, 39739803568 and 39739803998 of Rakesh, which are in the name of petitioners in CR No.522 of 2021 and FDRs No.39739556211, 39739552126, 39739552749 and 39739553152, which are in the name of petitioner in CR No.531 of 2021 be released to the petitioners, in case, any

such request is made by the claimants to the bank concerned.

This order will be subject to any order passed in FAO No.5355
of 2019.

April 20, 2021
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No