

1.

CM-3275-CII-2021 in/and
FAO-2912-2011 (O&M)
Date of decision : March 26, 2021Joytasana Vasant Palker and another
Versus
Mukesh Kumar and others

..... Appellants

..... Respondents

2.

CM-3252-CII-2021 in/and
FAO-5128-2011 (O&M)Tejeswani Palker and another
Versus

..... Appellants

Mukesh Kumar and others

..... Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rajbir Singh, Advocate for applicant/respondent No. 3.

Mr. S.S. Khurana, Advocate for the appellants (in FAO-5128-2011)

Mr. R.D. Yadav, Advocate for the appellants (in FAO-2912-2011)

LISA GILL, J.

This order shall dispose of FAO No. 2912 and 5128 of 2011.

Prayer in CM-3252-CII-2021 in FAO-5128-2011 and CM-3275-CII-2021 in FAO-2912-2011 is for listing of the appeals and disposal of the same in terms of the oral compromise arrived at between the appellants in both the appeals as well as with respondent – insurance company.

It is submitted that earlier the matter was placed before the Lok Adalat but the matter could not be compromised at that stage, but now the matter has been settled.

Learned counsel for the appellants (in both the appeals) affirm and verify that the matter has been amicably resolved not only amongst the appellants

but also with the respondent – insurance company. Both the appeals stand admitted.

Keeping in view the facts and circumstances as above besides request of learned counsel for the parties, both the appeals are taken on Board and listed for hearing today itself.

Appellants are the widow, minor son and parents of the deceased namely Ashish Palkar. Learned Tribunal awarded a sum of Rs. 32,79,000 to be apportioned between the widow, mother and minor child of the deceased. Appellant No. 1 (in FAO-2912-2011) -mother of the deceased was held entitled to receive a sum of Rs.10 lakhs with the remaining amount to be apportioned in equal between wife and minor child of the deceased i.e. (appellants in FAO-5128-2011).

FAO-2912-2011 has been filed by the parents of the deceased – Ashish Palkar.

FAO-5128-2011 has been filed by the wife and minor child of the deceased – Ashish Palkar.

It is informed that the matter has been amicably settled between the parents, widow and minor child of the deceased. Minor child is being maintained by his grand parents i.e. parents of the deceased. Father of the deceased has agreed to accept the decision of the learned Tribunal in not awarding any amount to him. Further, remaining three appellants have agreed to accept a total sum of Rs.60 lakhs over and above the amount awarded by the learned Tribunal as full and final settlement of the claim, to be shared equally amongst all three of them.

Affidavits dated 27.02.2021 of appellant No. 2/Om Palkar (in FAO-2912-2011), appellant No. 1/Joytasana Vasant Palkar (in FAO-2912-2011) and appellant No. 1/Tejeswani Palkar (in FAO-5128-2011) have been filed. Same are

taken on record as Annexures A1 to A3 subject to just exceptions. Affidavit of father of the deceased i.e. appellant No. 2 in FAO-2912-2011, in his individual capacity and as a guardian of the minor has been filed. Original affidavits are attached with the file in FAO-2912-2011.

It is specifically stated in the said affidavits that the matter has been compromised with the insurance company. A sum of Rs.60 lakhs over and above the amount awarded by the learned MACT, Rewari on account of death of Ashish Palker in the accident in question is accepted by the appellants as full and final settlement of their claim. It is further mutually settled between all the claimants that enhanced compensation would be equally distributed i.e. Rs.20 lakhs each amongst Smt. Joytasana Vasant Palker (mother), Tejeswani Palker (widow) and Om Palker i.e. minor son of the deceased. It is admitted by the widow namely Tejeswani Palker that the minor child is living with his grandparents and is under the guardianship of his grandfather - Sh. Vasant Rao Palker. Affidavit in this respect has been filed by Sh. Vasant Rao Palker, wherein the terms and conditions of the settlement as above are spelt out. It is further stated that the settlement has been arrived at for the welfare and well being of the minor and that the grandfather has no interest adverse to the minor.

Learned counsel for the parties further inform that demand drafts dated 12.03.2021 for a sum Rs.20 lakhs each in favour of appellant 1 and 2 (in FAO-5128-2011) and appellant No. 1 (in FAO-2912-2011) have since been received by the appellants on 15.03.2021 in terms of settlement.

Keeping in view the facts and circumstances as above, applications are allowed and these appeal are disposed of in terms of settlement arrived at

between the parties.

A copy of this order be conveyed to the appellants at given address.

March 26, 2021
rts

(Lisa Gill)
Judge

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