

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**FAO No.5932 of 2012 (O&M)
Date of Decision: 17.03.2021**

Balwinder Kaur and others

..... Appellants

Versus

Deepak Kumar and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Baldev Singh Dhillon, Advocate for the appellants.

Service upon respondent Nos.1 & 2 dispensed with,
vide order dated 13.05.2013.

Mr. Rajneesh Malhotra, Advocate for respondent No.3/Ins. Co.

MAHABIR SINGH SINDHU, J.

CM No.1183-CII of 2021

Present application has been filed for placing on record joint affidavit dated 28.01.2021 of the applicant/appellant No.1-Balwinder Kaur on behalf of appellants as Annexure A-1 in compliance of order dated 22.01.2021, passed by this Court in CM-645-CII-2021.

For the reasons mentioned in the application, the same is allowed as prayed for subject to all just exceptions. Aforesaid Affidavit is taken on record as Annexure A-1. Registry to tag the same at appropriate place.

CM-645-CII-2021

Present application has been filed jointly on behalf of respondent No.3-Insurance Company as well as appellants for disposal of the main appeal, which was admitted on 21.04.2014, on the basis of amicable settlement arrived at between the parties.

For the reasons mentioned in the application, the same is allowed as prayed for subject to all just exceptions.

With the consent of both sides, main appeal is taken on board today itself.

MAIN CASE

Present appeal has been filed by the appellants/claimants under Section 173 of the Motor Vehicles Act, 1988 (*for short 'Act'*) against the impugned award dated 15.06.2012, passed by learned Motor Accident Claims Tribunal, Kurukshetra (*for short 'Tribunal'*), for its modification to the extent that less compensation was granted to appellant Nos.2 & 3 (minors) and no compensation was granted to appellant No.1.

Paper-book reveals that a claim petition under Section 166 of the Act was filed by the appellants/claimants on account of motor-vehicular accident, which took place on 30.09.2009 at about 04:00 AM in front of Tau Devi Lal Park, G.T. Road, resulting into the death of Gurnaib Singh, husband of appellant/claimant No.1-Balwinder Kaur and father of appellants/claimant Nos.2 & 3, namely, Palakdeep Kaur (minor) and Jasandeep Kaur (minor).

Learned Tribunal, after taking into consideration the material available on record, partly allowed the claim petition and awarded a total

compensation of ₹ 7,34,400/- to claimant Nos.2 & 3 along with interest @ 7.5% per annum from the date of filing of the claim petition till its realization.

Learned Tribunal also clarified that aforesaid amount be deposited in some nationalized Bank in the shape of fixed deposit till claimants Nos.2 & 3 attain the age of majority.

Aggrieved against the above award dated 15.06.2012, present appeal was preferred.

Now during the pendency of appeal, matter has been amicably settled between the parties and in support thereof, aforesaid affidavit dated 28.01.2021 on behalf of the appellants has been filed. Paras 2 to 4 being relevant are extracted as under:-

“2. That the deponents through their counsel and respondent no.3/insurance company have settled the matter amicably involved in the above titled FAO No.5932 of 2012 and have arrived at mutual consensus that the deponents would be satisfied, if the compensation is enhanced to the tune of Rs.4,50,000/- (Rs. Four Lac Fifty Thousand Only) under all heads of compensation including interest component, towards full and final settlement of the claim in the present appeal, over and above the amount already awarded by the Ld. Tribunal, Kurukshetra vide award dated 15.06.2012 and the mutually agreed/settled enhanced amount of the compensation of Rs.4,50,000/- (Rs. Four Lac Fifty Thousand Only) will be paid over and above the awarded amount in full and final settlement of the award, which has been settled as per the consent of the deponents/appellants without any pressure of any kind.

3. That in view of the aforesaid amicable mutual settlement between the parties, the present appeal, may kindly

be disposed off with a direction to the respondent insurance company to pay the enhanced amount of compensation of Rs.4,50,000/- (Rs. Four Lac Fifty Thousand Only), which would be paid over and above the award amount in full and final settlement of the award for which the deponents/appellants have given their consent with their free will.

4. *That the said amount of Rs.4,50,000/- (Rs. Four Lac Fifty Thousand Only) shall be paid as full and final settlement and without any further interest. The respondent insurance company be directed to deposit the cheque/demand draft for an amount of Rs.4,50,000/- (Rs. Four Lac Fifty Thousand Only), as this Hon'ble Court deem fit and proper in the circumstances of the present case."*

Perusal of aforesaid paras of the affidavit clearly reveals that Insurer has agreed to enhance the compensation to the tune of ₹ 4.5 Lakh over and above the compensation, awarded by learned Tribunal and that is acceptable to the appellants as full and final settlement.

Even before this Court also, both learned Counsel for the parties have stated that they are fully authorized to settle the matter on the basis of joint application, supported by way of an affidavit of appellant No.1-Balwinder Kaur.

Learned Counsel for the Insurer has given an assurance that the aforesaid amount of ₹ 4.5 Lakh shall be paid to the appellants through RTGS in the same proportion as awarded by learned Tribunal within a period of four weeks from today in their bank account(s), which shall be furnished by learned Counsel, representing the appellants within one week from today.

Consequently, the present appeal is disposed off in terms of the settlement arrived at between the parties and they shall be bound by their respective stand.

Ordered accordingly.

March 17th, 2021
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No