

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

**FAO No.6 of 2014 (O&M)**

**Date of Decision:8.9.2022**

**Dalbir Singh and another**

**---Appellants**

**versus**

**Sant Singh and others**

**---Respondents**

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. K.S.Malik-I, Advocate  
for the appellants

Mr. Puneet Jain, Advocate  
for the insurance company

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**JAGMOHAN BANSAL, J.**

1. The appellants through present appeal are seeking setting aside of award dated 17.10.2012 passed by District Judge-cum-Motor Accident Claims Tribunal, Rohtak (for short “Tribunal”) whereby learned Tribunal has dismissed review application of the appellants.

2. The brief facts emerging from record are that appellants who are parents of Chand Singh filed a claim petition bearing MACT No. 166 dated 26.9.2007 seeking compensation on account of death of their son in a motor vehicle accident. Widow of Chand Singh i.e. Smt. Munesh alongwith her two children filed separate claim petition bearing MACT No. 108 dated 15.9.2007. Both the petitions came to be referred to Lok Adalat

which resulted into award dated 18.12.2008. On the basis of consensus of

the parties, a sum of Rs. 4.15 Lakhs was awarded as compensation to all the claimants including present appellants.

3. The appellants were not present before Lok Adalat and they had not signed compromise deed. Feeling themselves aggrieved from award of Lok Adalat, they preferred C.W.P.No. 5966 of 2009 before this Court which came to be dismissed vide order dated 17.1.2011 passed by Co-Ordinate Bench of this Court. In the order dated 17.1.2011, it was observed that award had been passed by Lok Adalat with consensus of parties and petitioners had also been granted their share, thus, writ petition is not maintainable. The appellants preferred LPA No. 315 of 2011 before this Court which came to be dismissed vide order dated 20.9.2011 by Division Bench of this Court. The appellants sought permission to withdraw LPA with liberty to file review and Division Bench dismissed LPA with liberty to file review. The operative portion of the order dated 20.9.2011 reads as under:-

*“Be that as it may. The case of the appellants is that they were not parties to the settlement and not present at the time of the passing of the award, the same having been passed in their absence and without their consent is liable to be set aside. This submission is contrary to the record of the Lok Adalat, where the presence of the counsel is specifically mentioned. If, the counsel was not present, the appellants should have approached the Lok Adalat seeking review of the order.”*

*At this stage, learned counsel for the appellants seeks to withdraw this appeal with liberty to file a review application.*

*Prayer allowed.*

*Dismissed as withdrawn with the liberty as prayed for.”*

*[Emphasis supplied]*

4. The appellants filed review petition No. 181 of 2011 before learned Tribunal which vide impugned order dated 17.10.2012 dismissed the same while holding that appellants had admitted award passed by Lok Adalat by filing Execution petition/Misc. Application No. 123 dated 17.3.2009. The operative portion of order passed by learned Tribunal is reproduced as below:-

*“7. Regarding the submission of learned counsel for the petitioners that neither he being counsel of the petitioners nor the petitioners Dalbir Singh etc. were present at the time of arriving of compromise between the parties and thus, the award dated 18.12.2008 handed down in MACT Case No. 166 dated 26.09.2007 titled Dalbir Singh etc. Versus Sant Kumar etc. is not binding upon the petitioners, it is pertinent to mention that as is explicit from the order dated 18.12.2008 handed down in MACT Case No.166 dated 26.09.2007 titled Dalbir Singh etc. Versus Sant Kumar etc., Shri R.S. Khatri, Advocate was present on behalf of the petitioners when the matter was decided by the Lok Adalat. Similarly, as is explicit from the perusal of the record, after the said award dated 18.10.2008 had been handed down in MACT Case No.166 dated 26.09.2007 titled as Dalbir Singh etc. Versus Sant Kumar etc., the present petitioners Dalbir Singh etc. preferred Misc. application No.123 dated 17.3.2009 requesting the court for releasing of shares of petitioners out of the awarded amount of Rs.4,15,000/-. In the said application, they also alleged that they had spent an amount of Rs.64,085/- on the treatment of their deceased son and Rs.40,000/- on transportation and last rites and thus, they prayed that the said amount be also given*

*to them along with their shares in the awarded amount of Rs.4,15,000/-. The said application preferred by the petitioners was disposed of vide order dated 28.3.2009 handed down by the then District Judge-cum-Motor Accident Claims Tribunal, Rohtak, by following order:*

*“Present: Shri R.S. Khatri, counsel for the applicants.*

*The order regarding release of the amount to the applicants has been passed in the connected execution application titled Munesh etc. Versus Sant Kumar etc. and therefore, there is no need to pass any separate order on this application. Hence, the application shall stand disposed of. Consign to records.*

*Announced in open Court*

*March 28, 2009*

*Sd/-*

*Motor Accident Claims Tribunal  
Rohtak.”*

8. *Since, at the time of handing down of award dated 18.12.2008 in MACT case No.166 dated 26.9.2008 titled as Dalbir Singh etc. Versus Sant Kumar etc. Shri R.S. Khatri, Advocate of the petitioners was present and as the authenticity and genuineness of the said award had also been admitted by the petitioners by way of filing the execution petition/Misc. Application No.123 dated 17.3.2009, also through Shri R.S. Khatri, Advocate, so, in these facts and circumstances, by no stretch of imagination it can be construed that the award dated 18.12.2008 handed down in MACT case No.166 dated 26.9.2007 titled as Dalbir Singh etc. Versus Sant Kumar etc. was passed without the consent of the petitioners.*

9. *Thus, as a consequence to the aforesaid discussion, this court is of the considered opinion that the present review petition containing no merit deserves dismissal and is accordingly dismissed. File be consigned to the record-room after due compliance.”*

5. Learned counsel for the appellants contended that appellants were not party to compromise entered between widow of deceased and his children on the one side and insurer on the other side. They were not present at the time of passing award dated 18.12.2008. He further contended that award passed by Lok Adalat is not absolute and sacrosanct. Lok Adalat has no power to pass order if no compromise or settlement is arrived at between the parties. The appellants in support of their contention relied upon judgment of Hon'ble Supreme Court in **State of Punjab and others vs. Ganpat Raj 2006 (8) SCC 364** wherein Hon'ble Supreme Court has held that if no compromise is arrived at between the parties, Lok Adalat cannot pass an order. The review petition was filed in view of liberty granted by Division Bench of this Court.

6. Per contra, learned counsel for the respondents contended that they have already made payment in terms of order of Lok Adalat which was based upon compromise arrived at between the parties. He further contended that appellants by filing Execution petition had accepted order passed by Lok Adalat irrespective of the fact that they were not present at the time of passing order by Lok Adalat. Counsel for appellants was present, thus, appellants cannot claim that order was passed ex parte. A part of compensation released by insurance company is still lying in Court and appellants are free to seek release thereof. As per Section 21(2) of The Legal Services Authorities Act, 1987, order passed by Lok Adalat is final and no appeal is maintainable against order passed by Lok Adalat.

7. I have considered arguments of both sides and find that present appeal is bereft of merits and deserves to be dismissed.

8. The conceded position emerging from record is that though appellants were not present before Lok Adalat, however, presence of Sh. R.S.Khatri, Advocate for appellants was marked; the appellants filed Execution Petition No. 123 dated 17.3.2009; appellants filed writ petition before this Court which came to be dismissed; the appellants filed LPA No. 315 of 2011 before a Division Bench of this Court which was dismissed as withdrawn with liberty to file review petition; the appellants filed review petition before learned Tribunal which was dismissed and respondent has already released awarded amount and a part of sum awarded is lying with learned Tribunal.

9. Learned counsel for the appellants has vigorously contended that Lok Adalat had passed order in the absence of appellants. I have perused the order passed by a Co-ordinate Bench of this Court, a Division Bench of this Court and learned Tribunal. I find that foundation of all the orders is that presence of counsel for the appellants was marked in the order of Lok Adalat and appellants filed execution application. The appellants are trying to take somersault which is not permissible because filing of execution application means acquiesce on the part of the appellants. The appellants are estopped from taking U-turn.

10. There is no quarrel on the issue that Lok Adalat cannot pass an order unless there is compromise between the parties. The Lok Adalat can settle a dispute on the basis of compromise but cannot adjudicate the lis. The Hon'ble Supreme Court in **Ganpat Raj's case (supra)**, as cited by learned counsel for the appellants has held that if no compromise or settlement is or could be arrived at, no order can be passed by Lok Adalat.

In the present case, there were two sets of claim petitions qua same incident i.e. death of Chand Ram. Indubitably, widow and children of deceased had settled their claim which indicates that there was some compromise even though appellants were not physically present before Lok Adalat. It is not a case where Lok Adalat has passed order contrary to compromise or there is fraud on the part of respondents or there is non-compliance of compromise or settlement. The appellants contended that they were not present at the time of order passed by Lok Adalat, however, learned counsel for the appellants failed to controvert the fact that appellants have filed execution petition, thus, there was acquiesce on the part of appellants.

11. Besides the above factual controversy, it would be apt to advert with maintainability of review petition before learned Tribunal. As per Section 21(2) of The Legal Services Authorities Act, 1987, every award made by a Lok Adalat shall be final and binding on all the parties and no appeal shall lie to any Court against the award. The appellants had filed review before learned Tribunal under Section 114 CPC. Section 114 of CPC and Section 21 of Legal Services Authorities Act, 1987 are reproduced hereunder:-

***“Section 114 of CPC***

*114.-Subject as aforesaid, any person considering himself aggrieved,-*

*a) by a decree or Order from which an appeal is allowed by this Code, but from which no appeal has been preferred,*

*(b) by a decree or Order from which no appeal is allowed by this Court, or*

*(c) by a decision on a reference from a Court of*

*Small Causes, may apply for a review of judgment to the Court which passed the decree or made the Order, and the Court may make such Order thereon as it thinks fit.*

***Section 21 of The Legal Services Authorities Act, 1987***

***21. Award of Lok Adalat.—(1) Every award of the Lok Adalat shall be deemed to be a decree of a civil court or, as the case may be, an order of any other court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section (1) of section 20, the court-fee paid in such case shall be refunded in the manner provided under the Court Fees Act, 1870 (7 of 1870)***

*(2) Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award.*

*[Emphasis spplied]*

From the perusal of Section 114 of CPC, it is quite evident that review is maintainable before the Court which has passed decree or order and as per Section 21(2) of the Legal Services Authorities Act, order passed by Lok Adalat is final and binding and no appeal lies before any Court against the award. In the present case, award was passed by Lok Adalat and review petition was filed before learned Tribunal. I am of the considered view that review before learned Tribunal was not maintainable. The appellants filed writ petition assailing order passed by Lok Adalat which came to be dismissed by a Co-ordinate Bench of this Court. The appellants preferred LPA before a Division Bench of this Court which was dismissed as withdrawn with liberty to file review petition. The Division Bench

dismissed LPA with liberty to file review. Grant of liberty by Division Bench does not create statutory or fundamental right in the appellants to file review before learned Tribunal which had not passed the award. It is further apt to notice that Division Bench while dismissing LPA has observed that Appellants should have approached Lok Adalat for seeking review of the order, if the counsel was not present. Division Bench has not observed that review is maintainable before Tribunal which had not passed award in question.

12. Nobody can be remediless if there is fraud, violation of principle of natural justice or violation of some vested or fundamental rights. What would be remedy if an order is passed by Lok Adalat without consent of parties or where order is obtained by fraud or where Lok Adalat has adjudicated the lis by way of directing the parties to make payment. A three Judge Bench of Hon'ble Supreme Court in **State of Punjab and another vs. Jalour Singh and others (2008) 2 SCC 660** has answered all these questions while adverting with an order passed by Lok Adalat while appeal was pending before this Court. The Hon'ble Supreme Court has clearly held that remedy against order of Lok Adalat is to file writ petition before High Court and if there is order by Lok Adalat without reference to settlement, party may opt revival of appeal before the High Court. The Hon'ble Supreme Court had held in para 12 as under:-

*12.It is true that where an award is made by Lok Adalat in terms of a settlement arrived at between the parties, (which is duly signed by parties and annexed to the award of the Lok Adalat), it becomes final and binding on the parties to the settlement and becomes executable*

*as if it is a decree of a civil court, and no appeal lies against it to any court. If any party wants to challenge such an award based on settlement, it can be done only by filing a petition under [Article 226](#) and/or [Article 227](#) of the Constitution, that too on very limited grounds. But where no compromise or settlement is signed by the parties and the order of the Lok Adalat does not refer to any settlement, but directs the respondent to either make payment if it agrees to the order, or approach the High Court for disposal of appeal on merits, if it does not agree, is not an award of the Lok Adalat. The question of challenging such an order in a petition under [Article 227](#) does not arise. As already noticed, in such a situation, the High Court ought to have heard and disposed of the appeal on merits.”*

Similar controversy came up before a two Judge Bench of Hon'ble Supreme Court in **Bhargavi Constructions and another vs. Kothakapu Muthyam Reddy and others (2018) 13 SCC 480**. Hon'ble Supreme Court after discussing its earlier judgment in **Jalour Singh's case (supra)** has held that challenge to award of Lok Adalat can be made only by filing a writ petition under Article 226 and/or 227 of Constitution of India in the High Court and that too on very limited grounds. The relevant paragraphs are reproduced hereunder:-

*“22. The question arose before this Court (Three Judge Bench) in the case of State of Punjab (supra) as to what is the remedy available to the person aggrieved of the award passed by the Lok Adalat under [Section 20](#) of the Act. In that case, the award was passed by the Lok Adalat which had resulted in disposal of the appeal pending before the High Court relating to a claim case*

*arising out of [Motor Vehicle Act](#). One party to the appeal felt aggrieved of the Award and, therefore, questioned its legality and correctness by filing a writ petition under [Article 226/227](#) of the Constitution of India. The High Court dismissed the writ petition holding it to be not maintainable. The aggrieved party, therefore, filed an appeal by way of special leave before this Court. This Court, after examining the scheme of the Act allowed the appeal and set aside the order of the High Court. This Court held that the High Court was not right in dismissing the writ petition as not maintainable. It was held that the only remedy available with the aggrieved person was to challenge the award of the Lok Adalat by filing a writ petition under [Article 226](#) or/and 227 of the Constitution of India in the High Court and that too on very limited grounds. The case was accordingly remanded to the High Court for deciding the writ petition filed by the aggrieved person on its merits in accordance with law.*

**23.** *This is what Their Lordships held in Para 12:*

*“12. It is true that where an award is made by the Lok Adalat in terms of a settlement arrived at between the parties (which is duly signed by parties and annexed to the award of the Lok Adalat), it becomes final and binding on the parties to the settlement and becomes executable as if it is a decree of a civil court, and no appeal lies against it to any court. If any party wants to challenge such an award based on settlement, it can be done only by filing a petition under [Article 226](#) and/or [Article 227](#) of the Constitution, that too on very limited*

*grounds. But where no compromise or settlement is signed by the parties and the order of the Lok Adalat does not refer to any settlement, but directs the respondent to either make payment if it agrees to the order, or approach the High Court for disposal of appeal on merits, if it does not agree, is not an award of the Lok Adalat. The question of challenging such an order in a petition under [Article 227](#) does not arise. As already noticed, in such a situation, the High Court ought to have heard and disposed of the appeal on merits.”*

**24.** *In our considered view, the aforesaid law laid down by this Court is binding on all the Courts in the country by virtue of mandate of [Article 141](#) of the Constitution. This Court, in no uncertain terms, has laid down that challenge to the award of Lok Adalat can be done only by filing a writ petition under [Article 226](#) and/or [Article 227](#) of the Constitution of India in the High Court and that too on very limited grounds. In the light of clear pronouncement of the law by this Court, we are of the opinion that the only remedy available to the aggrieved person(respondents herein/plaintiffs) was to file a writ petition under [Article 226](#) and/or 227 of the Constitution of India in the High Court for challenging the award dated 22.08.2007 passed by the Lok Adalat. It was then for the writ Court to decide as to whether any ground was made out by the writ petitioners for quashing the award and, if so, whether those grounds are sufficient for its quashing.”*

From the perusal of above quoted judgments, it transpires that a person aggrieved from order of Lok Adalat cannot prefer an appeal before Appellate Court whereas remedy lies in writ petition under Article 226/227 of the Constitution of India. In the case in hand, the appellants filed writ petition assailing order of Lok Adalat which came to be dismissed by a Co-ordinate Bench of this Court by order dated 17.1.2011. Learned Single Judge held that award has been passed by Lok Adalat with the consensus of the parties and appellants have also been granted share, hence, the writ petition is not maintainable. A Division Bench of this Court while hearing LPA vide order dated 20.9.2011 held that if counsel for the appellants was not present, appellants should have approached the Lok Adalat seeking review of the order. It is apt to mention here that learned Single Judge as well as Division Bench of this Court dismissed petition/appeal of the appellants noticing that counsel for the appellants was present at the time of order passed by Lok Adalat. Learned Tribunal while passing impugned order has noticed another important fact that appellants filed execution application on 17.3.2009 which was disposed of vide order dated 28.3.2009. Filing of execution application leaves no doubt that appellants were aware about the award of Lok Adalat and at this stage, they are unnecessarily raking the issue.

In view of the afore-cited judgments of Hon'ble Supreme Court, the review petition was not maintainable and only remedy with appellants was to file writ petition which stands dismissed.

13. In view of above findings, I am of the considered opinion that present appeal is bereft of merits and deserves to be dismissed.

Accordingly, the appeal is dismissed.

I would hasten to add that if impugned order is set aside, the order passed by Lok Adalat which stands complied with by respondent as well by one set of claimants, would stand nullified. The proceedings before learned Tribunal in MACT case No. 166 dated 26.9.2007 would restore. The object which appellants could not directly achieve would be achieved. This Court acting as an Appellate Court would quash order of Lok Adalat which is not at all permissible by law.

Pending miscellaneous applications, if any, shall stand disposed of.

**(JAGMOHAN BANSAL)**  
**JUDGE**

**8.9.2022**  
**PARAMJIT**

|                           |   |     |
|---------------------------|---|-----|
| Whether speaking/reasoned | : | Yes |
| Whether reportable        | : | Yes |